

**VOLUNTEER:** an individual who performs hours of service for civic, charitable, or humanitarian reasons without promise, expectation, or receipt of compensation for services rendered except reimbursement for expenses, reasonable benefits, and nominal fees or a combination thereof.

**VULGAR LANGUAGE:** language that is obscene, indecent, or offensive to a reasonable person.

**WEAPON:** an instrument of offensive or defensive combat, or anything used, or designed to be used, in injuring a person, including but not limited to, firearms and knives.

**WILLFUL:** with intent; knowingly; deliberately; intending the result which actually comes to pass; not accidentally or involuntarily.

**WORKPLACE:** includes the Chapter, Navajo Nation buildings, property, parking areas, and any other location where Chapter or Navajo Nation business is conducted.

**LEUPP CHAPTER**  
**PROCUREMENT POLICIES**  
**AND**  
**PROCEDURES**

**LEUPP CHAPTER  
PROCUREMENT POLICIES & PROCEDURES MANUAL  
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**LEUPP CHAPTER**  
**PROCUREMENT POLICIES AND PROCEDURES MANUAL**

**I. AUTHORIZATION**

- A. Pursuant to 26 N.N.C. § 101 (A), the *Leupp Chapter* (hereafter "*Leupp Chapter*") is required to formulate, implement and operate under a Five Management System to ensure procurement accountability. Accordingly, *Leupp Chapter* has developed policies and procedures to implement the Five Management System consistent with applicable Navajo Nation Law.
- B. Pursuant to *Leupp Chapter* Resolution No. LP08-106-2010, the *Leupp Chapter* Procurement Policies and Procedures Manual (hereafter "Procurement Manual") has been approved.

**II. PURPOSE AND SCOPE OF POLICY**

- A. The Procurement Manual sets forth the authority, principles and procedures governing the procurement of goods and services by the *Leupp Chapter*. The Procurement Manual provides the basis for the implementation of and general provision to obtain goods and services at a competitive price within a reasonable time.
- B. The general principles of the Procurement Manual are applicable to all *Leupp Chapter* employees and members of the *Leupp Chapter*, including *Leupp Chapter* Officials who will monitor procurement activities to ensure all handling of *Leupp Chapter* procurement is done in accordance with principles detailed in the Manual.
- C. The *Leupp Chapter* may establish its own regulations for the accounting of purchased goods and services consistent with Navajo Nation laws and stipulations attached to grants, contracts, or related to procurement agreements. The *Leupp Chapter* will provide assurance that all purchasing is done to benefit the *Leupp Chapter*, and comply with *Leupp Chapter* members' action and approval.
- D. These policies and procedures shall provide adequate and accurate information for *Leupp Chapter* reporting activities, help justify how resources are utilized, serve as an important internal control measure, help document important decisions, and provide a history of the *Leupp Chapter*'s procurement activities.
- E. These policies and procedures shall ensure that all procurement activities are supported with proper and accurate documentation.

**III. APPLICABLE LAWS:**

The *Leupp Chapter* shall comply with all applicable state, federal, and Navajo Nation laws, including the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.*, and the Navajo Business and Procurement Act, 12 N.N.C. §§ 1501 *et seq.* Upon certification of its Procurement Manual by the Transportation and Community Development Committee,



the *Leupp Chapter* is expressly not governed by the Navajo Nation Procurement Act, 12 N.N.C. §§ 301 *et seq.*, which requirements and procedures are replaced by this Procurement Manual.

#### IV. PROCUREMENT POLICIES

- A. The *Leupp Chapter* shall treat all perspective vendors in an equal and fair manner, in order to not give preferential treatment to any vendor(s) or prospective procurement source of goods and services.
- B. The *Leupp Chapter* shall ensure maximum open and free competition regardless of the dollar value of the goods or services being purchased.
- C. No rewards, favors, gifts or other form of remuneration shall be received from any vendor(s), contractor, individual or firm, or any other sources having relations with the *Leupp Chapter*.
- D. The *Leupp Chapter* shall have a clearly defined remedy under the terms of any contract or agreement entered into by the *Leupp Chapter* if either party is treated in an unjust manner. Any such remedy shall strictly comply with the Navajo Sovereign Immunity Act, 1 N.N.C. §§ 551 *et seq.* Pursuant to 1 N.N.C. § 554 (J), any *Leupp Chapter* contract or agreement providing for arbitration shall require prior review and approval by the Navajo Nation Department of Justice and compliance with the Navajo Nation Arbitration Act, 7 N.N.C. §§ 1101 *et seq.*
- E. All *Leupp Chapter* purchasing activities shall require:
  - 1. Community approval, to be obtained through a community-approved budget or by individual/specific approval. Individual/specific approval will be documented by use of a *Leupp Chapter* resolution.
  - 2. Review of purchasing requirements and requisitions to insure that the most economic means of purchasing are adopted and to avoid duplicate purchases.
  - 3. An accurate, fair and unbiased description of the goods or services needed on a request for purchase or purchase orders.
  - 4. Awarding of purchase agreements only to those organizations, vendor(s) and suppliers who are capable of providing goods or services needed, and who have proven to be responsible suppliers.
  - 5. Purchase costs to be reasonable through the adoption of a process that provides a mechanism of ensuring fair and open competition.
  - 6. The *Leupp Chapter* administration staff to maintain documentation of all purchases and establishment of a purchase monitoring system which ensures goods and services are provided in the time frame requested and consistent with applicable terms and conditions specified in any applicable agreement.

7. The *Leupp Chapter* to make accurate, proper and timely payments on all procurement of goods and services to maintain the *Leupp Chapter's* creditability and good will with vendor(s), contractor(s), or other debtors.
- F. The *Leupp Chapter* shall comply with all applicable Navajo Nation laws, including, but not limited to, the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.*, the Navajo Business and Procurement Act, 12 N.N.C. §§ 1501 *et seq.*, the Navajo Nation Privacy Act, 2 N.N.C. §§ 81 *et seq.*, the Navajo Nation Ethics in Government Law, 2 N.N.C. §§ 3741 *et seq.*, the Navajo Uniform Commercial Code, 5A N.N.C. §§ 1-101 *et seq.*, and 2 N.N.C. § 223 by the following procedures:
  1. Pursuant to 26 N.N.C. § 2002 (A) and (B), the *Leupp Chapter* shall adhere to all contract requirements enumerated therein.
  2. That all reasonable effort shall be made to offer purchasing opportunities to qualified Navajo-owned suppliers and vendors.
- G. Unauthorized purchases are prohibited. Any *Leupp Chapter* employee or *Leupp Chapter* official who charges any procurement of goods or services to the *Leupp Chapter* without proper authorization may be subject to penalties and may be personally liable, as provided in the *Leupp Chapter* Personnel Policies and Procedures Manual or other applicable laws of the Navajo Nation. The *Leupp Chapter* shall not be liable, faulted or responsible for unauthorized purchases.
- H. Any unauthorized purchase performed may result in immediate termination and release of employment from the *Leupp Chapter*, in accordance with any applicable personnel policies and the Personnel Manual under the *Leupp Chapter's* Five Management System.
- I. The *Leupp Chapter* Officials are prohibited from making purchases on behalf of the *Leupp Chapter*. The *Leupp Chapter* Officials can consult with the *Leupp Chapter* Manager on the Administration making purchases which will greatly benefit the *Leupp Chapter*.
- J. All checks for payments to vendors and suppliers shall require two signatures before fund disbursement. The *Leupp Chapter* Secretary/Treasurer shall co-sign all *Leupp Chapter* checks along with the *Leupp Chapter* Manager. In the event that the *Leupp Chapter* Secretary/Treasurer is unavailable, another alternate authorized signatory shall sign in his/her place, and shall provide a justification memorandum for any such signature.
- K. The following purchasing limits shall be as follows:
  1. On any purchase from \$ 0 to \$ 2,500 total purchase, the *Leupp Chapter* Administrative Assistant may verbally obtain purchase and vendor information. Fund availability and budgeted line item shall be documented on the Fund

Approval Form. The three verbal quotations shall be documented and include the vendor's name, identity of the individual(s) contacted, price quotation, date of contact, phone numbers and the method of contact. Information gathered via internet is valid. Funds must be available and

budgeted for such purchases. Said purchases shall only require the approval signature of the *Leupp Chapter Manager*.

2. On any purchase from \$ 2,501 to \$ 10,000 total purchase, the *Leupp Chapter Administrative Assistant* shall obtain three (3) or more written quotations from different vendors. To *expedite* the purchase, the vendors can fax their cost and terms to the *Leupp Chapter Manager*. All documents must be properly recorded and kept on file. This provision shall only require the signature approval of the *Leupp Chapter Manager*.
3. For any purchase from \$ 10,001, to \$ 50,000 total purchase, the *Leupp Chapter Administrative Assistant* shall obtain three (3) or more written quotations from different vendors. The *Leupp Chapter Manager* shall insure that certified entities under the Navajo Business Opportunity Act receive preference, and shall recommend the selected vendor to the *Leupp Chapter* for approval by a simple majority vote during a duly-called Regular *Leupp Chapter* meeting.
4. All procurement contracts and agreements exceeding \$ 50,000 shall be governed by the applicable rules and procedures under the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.*, and those procurement provisions further enumerated at Section VII of the Procurement Manual.

## V. GENERAL DUTIES AND RESPONSIBILITIES

### A. Administrative Responsibilities:

1. The *Leupp Chapter Manager* shall:
  - a. Be the primary check signer of all *Leupp Chapter* checks pursuant to 26 N.N.C. § 1004 (B) for payment to vendors, along with the *Leupp Chapter Secretary/Treasurer*. In the event that the *Leupp Chapter Secretary/Treasurer* is unavailable, another authorized alternate signatory shall sign in his/her place, said signature which shall require a justification memorandum by the alternate signatory.
  - b. Be the custodian of all official books, records, documents and funds of the *Leupp Chapter* pursuant to 26 N.N.C. § 1004 (C).
  - c. Approve/disapprove purchase requisitions to assure purchases are within the budget according to funding guidelines, reasonableness, and necessity.
  - d. Select the vendor(s) based on vendor's reliability in terms of past procurement, general reputation and compliance with applicable Navajo Nation Laws.
  - e. Investigate any discrepancies and report it immediately to appropriate authorities.

- f. Recommend amendments to the Procurement Policies and Procedures Manual.

2. The *Leupp Chapter* Administrative Assistant shall:

- a. Identify a need to procure services, supplies or equipment for *Leupp Chapter* purposes or projects, and initiate the purchase requisition, based on availability of funds.
- b. Obtain price quotations when required, and verify fund availability by reviewing the appropriate ledgers.
- c. Prepare the appropriate documents for signatory approval.
- d. Prepare and submit all applicable documents to the selected vendor(s).
- e. Verify that the vendor received all documents for purchases.
- f. Obtain and receive the merchandise along with the invoice(s) and prepare receiving report(s) for goods and services received.
- g. Submit invoice and receiving reports to the *Leupp Chapter* Manager for payment.
- h. Also have responsibility of offering recommendations for amending procurement policies and procedures.
- i. Have responsibility of reporting discrepancies and illegal procurement activities to the *Leupp Chapter* Manager or *Leupp Chapter* Officials.

3. Temporary Employees:

- a. May make requests to the *Leupp Chapter* Administrative Assistant for goods and/or services during his/her employment with the *Leupp Chapter*.
- b. May also obtain and receive the merchandise along with the invoice(s) for goods and services received.

B. *Leupp Chapter* Officials' oversight responsibilities:

1. The *Leupp Chapter* President shall:

- a. Work closely with the *Leupp Chapter* Vice-President and *Leupp Chapter* Secretary/Treasurer to ensure that the *Leupp Chapter* administration is adequately meeting the *Leupp Chapter's* directives and expending funds according to conditions of the



Navajo Nation Council and/or the *Leupp Chapters* annual budgetary objectives, and shall report to the *Leupp Chapter* Membership.

- b. In the absence of the *Leupp Chapter* Secretary/Treasurer, may co-sign all *Leupp Chapter* checks with a justification memorandum.
- c. Monitor and review on a quarterly basis the procurement activities and processes of the *Leupp Chapter*, but pursuant to 26 N.N.C. § 1001 (E) shall not have any direct involvement in the management and operations of the *Leupp Chapter* administration.
- d. Work towards resolving any discrepancies, irregularities, or illegalities in the procurement process.
- e. Make recommendations for discussion to amend, modify or revise the Procurement Manual.

2. The *Leupp Chapter* Vice-President shall:

- a. In the absence of the *Leupp Chapter* President, assume delegated duties and responsibilities of the *Leupp Chapter* President for a reasonable time period.
- b. Assist in the quarterly review of the *Leupp Chapter* procurement process, but pursuant to 26 N.N.C. § 1001 (E) shall not have any direct involvement in the management and operations of the *Leupp Chapter* administration.
- c. Have responsibilities that include resolving and/or reporting discrepancies and illegalities to the appropriate authorities.
- d. Have responsibility of offering recommendations for amending procurement policies and procedures.

3. The *Leupp Chapter* Secretary/Treasurer shall:

- a. Work closely with the *Leupp Chapter* President and *Leupp Chapter* Vice-President to ensure that the *Leupp Chapter* administration is adequately meeting the *Leupp Chapter's* directives and expending funds according to conditions of the Navajo Nation Council and/or the *Leupp Chapters* annual budgetary objectives, and shall report to the *Leupp Chapter* Membership.
- b. Monitor the maintenance of an adequate accounting system to ensure accountability of all funds and expenditures; and will report financial statements to the *Leupp Chapter* President and *Leupp Chapter* Membership on a monthly basis.

- c. Ensure that the *Leupp Chapter* administration prepares monthly financial reports of all transactions and expenditures of the *Leupp Chapter* by categories.
- d. Co-sign all *Leupp Chapter* checks along with the *Leupp Chapter* Manager.
- e. Report discrepancies and illegalities to the appropriate authorities.
- f. Offer recommendations for amending procurement policies and procedures.
- g. Not have any direct involvement in the management and operations of the *Leupp Chapter* administration pursuant to 26 N.N.C. § 1001 (E).

## VI. PURCHASING SYSTEMS AND PROCEDURES

- A. The following procurement procedures shall apply for reoccurring expenditures (electricity, water, telephone, heating, etc.) of goods and services with all funds received by the *Leupp Chapter*:
  - 1. Any *Leupp Chapter* staff and *Leupp Chapter* Officials may request for goods or services on a *Leupp Chapter* Requisition Form (Exhibit F) through the *Leupp Chapter* Administrative Assistant. The *Leupp Chapter* Administrative Assistant shall review the request for need and necessity, but shall not hinder any reasonable request.
  - 2. The *Leupp Chapter* Administrative Assistant shall verify fund availability, prepare the requisition form and forward documents to the *Leupp Chapter* Manager for approval.
  - 3. The *Leupp Chapter* Manager shall review documents for completeness and either approve or disapprove the purchase requisition.
  - 4. If approved, the requisition form and supporting documents shall be submitted back to the *Leupp Chapter* Administrative Assistant who shall order said goods and/or services.
  - 5. Once an invoice is received showing the amount charged to the *Leupp Chapter*, a Fund Approval Form (FAF) shall be attached with the invoice by the *Leupp Chapter* Administrative Assistant and submitted to the *Leupp Chapter* Manager.
  - 6. The *Leupp Chapter* Manager shall review the financial documents to make sure any invoice is correct and shall either approve or disapprove the requisition for payment.
  - 7. Supporting documents shall be verified by the secondary signatory (generally the *Leupp Chapter* Secretary/Treasurer) who shall also sign the

check. In the event that the *Leupp Chapter* Secretary/Treasurer is unavailable, another authorized signatory shall sign in his/her place, and shall require a justification memorandum by the alternate signatory.

8. Upon approval and issuance of a check, the *Leupp Chapter* Administrative Assistant shall remit payment (check) to the vendor with a copy of the invoice attached.
9. The *Leupp Chapter* Administrative Assistant shall post the expenditure to the check register and appropriate ledger.
10. The *Leupp Chapter* Administrative Assistant shall file the original invoice with a copy of the canceled check(s) attached, in accordance with the *Leupp Chapter's* Record Management Policy and Procedures Manual.

B. Purchase Order (PO) Procedures:

The *Leupp Chapter* shall use a Purchase Order method of procuring goods and services when ordering office supplies, janitorial supplies, and fuel supplies, and for the procurement of non-professional services, including for any maintenance agreement for services to the office machines, *Leupp Chapter* heavy equipment, and some building maintenance. Purchase Orders shall not be used for the procurement of any professional services, including any service where the industry standard for that profession provides for professional licensure such as for contractors, plumbers and electricians, and which shall require a Professional Services Agreement to be based on templates approved by the Navajo Nation Department of Justice (DOJ) in consultation with DOJ.

1. The *Leupp Chapter* Administrative Assistant shall identify a need to procure eligible goods or services and shall verify funds availability.
2. The *Leupp Chapter* Administrative Assistant shall obtain price quotations from at least three (3) vendors who will accept a Purchase Order.
3. The *Leupp Chapter* Administrative Assistant shall fill out a *Leupp Chapter* Purchase Requisition Form, which must contain a clear and concise description of the items required and the recommendation of a vendor. The *Leupp Chapter* Administrative Assistant shall sign the purchase requisition form and forward the document(s) to the *Leupp Chapter* Manager for approval or disapproval.
4. The *Leupp Chapter* Manager shall review the purchase requisition for reasonableness, necessity, budget and fund compliance and either approve or disapprove the purchase requisition and vendor selection.
5. The *Leupp Chapter* Administrative Assistant shall prepare a Purchase Order when the Purchase Requisition is approved.
6. The amount of the approved Purchase Order shall only be debited from the fund and subsidiary ledger and debited from the Check Register when the procured good or services are satisfactorily received.



7. The *Leupp Chapter* Administrative Assistant shall submit the *Leupp Chapter* Purchase Order to the vendor.
8. The *Leupp Chapter* Manager shall be authorized and responsible to correct or void a Purchase Order for the following reasons:
  - a. Increase or decrease of a price quotation
  - b. Vendor's address change
  - c. Item number, description changes
9. Upon receipt of goods or services with shipping documents (bill of lading, invoice, etc.) an inventory shall be performed by the *Leupp Chapter* Administrative Assistant who shall fill out the receiving report and stamp RECEIVED on the shipping document.
10. The *Leupp Chapter* Manager shall review the purchase and receipt documents for completeness and accuracy.
11. The *Leupp Chapter* Administrative Assistant shall prepare a check to the vendor and submit it to the *Leupp Chapter* Manager for signature. The check shall also be signed by the secondary signatory.
12. The *Leupp Chapter* Administrative Assistant shall remit payment to the vendor.
13. The *Leupp Chapter* Administrative Assistant shall make posting notation to the fund and subsidiary ledgers to document the actual payment.
14. The *Leupp Chapter* Administrative Assistant shall file the original invoice with a copy of the canceled check(s) attached, in accordance with the *Leupp Chapter's* Record Management Policy and Procedures Manual.

C. Prepare a Fund Approval Form:

1. The *Leupp Chapter* shall use the Fund Approval Form (FAF) method for emergencies or when vendor(s) do not accept *Leupp Chapter* Purchase Orders.
2. The following procedures shall apply:
  - a. The *Leupp Chapter* Administrative Assistant shall fill out the Fund Approval Form (FAF).
  - b. The *Leupp Chapter* Administrative Assistant shall obtain the price quotes and checks for availability of funds.
  - c. The *Leupp Chapter* Manager shall review the FAF for reasonableness, necessity; fund and budget compliance and either approve or disapprove the proposed expenditures.

- d. If approved, the *Leupp Chapter* Administrative Assistant shall prepare the check.
- e. The *Leupp Chapter* Manager and the secondary signatory shall sign the check.
- f. The payment (check) shall be submitted to the vendor with an attached copy of the vendor's quote.
- g. The *Leupp Chapter* Administrative Assistant shall post expenditures to the check register or appropriate ledger.
- h. Upon receipt of goods with shipping document (bill of lading, invoice, etc.), the *Leupp Chapter* Administrative Assistant shall perform the inventory and marks the invoice as PAID.
- i. The *Leupp Chapter* Manager shall review FAF with attached invoice.
- j. The *Leupp Chapter* Administrative Assistant shall file all purchase transaction documents consistent with the *Leupp Chapter* Records Management Policy and Procedures Manual.

**D. Blanket Purchase Order:**

- 1. When appropriate, the *Leupp Chapter* may utilize the Blanket Purchase Order purchasing method to a vendor for a specified amount and period of time to cover purchases of a recurring nature, or purchases essential to the function or maintenance of *Leupp Chapter* equipment, property or administration.

This purchasing method may be used to minimize the need of individual requisitions, purchase orders, and the costs related to the processing and filing of these documents.

- 2. When using a Blanket Purchase Order, the *Leupp Chapter* shall maintain a subsidiary ledger of transactions in which all transactions are recorded, and the open balance of the Purchase Order is known.
- 3. The amount of the Blanket Purchase Order would be set up not to exceed a specified dollar amount, based on an estimate of expenditures for a specified period of time.
- 4. Only the *Leupp Chapter* Manager shall order and receive goods or services on the Blanket Purchase Order.
- 5. In every transaction under this method the following procedures shall apply:

- a. The *Leupp Chapter Manager* shall receive all requests to purchase materials, equipment or services. Any employees and *Leupp Chapter Officials* may submit a request. Any request from a standing committee member shall only be made through a *Leupp Chapter Official*.
- b. The *Leupp Chapter Administrative Assistant* shall verify funds availability and acquire quotations from (3) three vendors.
- c. The *Leupp Chapter Administrative Assistant* shall initiate a *Leupp Chapter Purchase Requisition Form*, typewritten as follows:
  - (1) Complete all blank lines on the requisition form such as date, requestor, where and when materials are to be delivered, and the proper accounting code and fund number.
  - (2) Indicate last source or possible sources of supply, if known, in the space titled "Suggested Vendors".
  - (3) List the items required, giving a complete description including stock number (if applicable), manufacturer's or vendor's name and catalog number, if available.
  - (4) If the information is available, list the unit price from a previous purchase order, vendor's catalog or other source indicating the source from which the prices were taken. A copy of the requested quotations will be attached to the Purchase Requisition Form.
  - (5) If a partial shipment would not satisfy the *Leupp Chapter's* need, then, a notation ["Do Not Ship Partial Order"] must be made on the Purchase Requisition Form.
- d. The *Leupp Chapter Administrative Assistant* shall sign the Purchase Requisition Form in the space provided for and forward to the *Leupp Chapter Manager* for approval, including a recommended vendor.
- e. The *Leupp Chapter Manager* shall review the Purchase Requisition Form for reasonableness, necessity, budget and fund compliance and shall either approve or disapprove the requisition form and vendor selection.
- f. When the purchase is approved, the *Leupp Chapter Administrative Assistant* shall prepare a Blanket Purchase Order and encumber funds.
- g. The *Leupp Chapter Administrative Assistant* shall submit the *Leupp Chapter Blanket Purchase Order* to the vendor.

- h. Upon receipt of goods or services with receiving documents (bill of lading, invoice, etc.) *Leupp Chapter* Administrative Assistant shall perform an inventory, fill out the receiving report, and stamp the shipping document.
- i. The *Leupp Chapter* Manager shall review the Blanket Purchase Order and receiving documents for completeness and accuracy. The *Leupp Chapter* Manager shall then forward the receiving document to the *Leupp Chapter* Administrative Assistant for recording in the appropriate fund ledgers to become a source document for processing an unpaid invoice.
- j. The *Leupp Chapter* Administrative Assistant shall, upon approval, prepare a check to the vendor and submit the check to the *Leupp Chapter* Manager for signature. The check shall be signed by the secondary signatory.
- k. The *Leupp Chapter* Administrative Assistant shall remit payment to the vendor and post to the appropriate accounting ledgers.
- l. The *Leupp Chapter* Administrative Assistant shall make posting notation to the fund and subsidiary ledgers to document the actual payment.
- m. The *Leupp Chapter* Administrative Assistant shall file the original invoice with a copy of the canceled check(s) attached, in accordance with the *Leupp Chapter's* Record Management Policy and Procedures Manual.

E. Emergency Fund Purchases:

- 1. All Emergency Fund purchases shall meet the following criteria:
  - a. A Declaration of Emergency shall first be declared by the President of the *Leupp Chapter* or the President of the Navajo Nation, based upon an emergency bulletin issued by the Emergency Management Commission.
  - b. The *Leupp Chapter* shall designate an Emergency Fund budget annually and this Fund shall be expended for weather-related emergencies and/or man-made or natural disaster affecting the health, safety, and welfare of *Leupp Chapter* members, individually or as a group residing within the impacted area.
  - c. The *Leupp Chapter* shall enact a community approved budget and refrain from unauthorized purchases. The Emergency Fund is a restricted fund and shall be expended consistent with established criteria and requirements in Section VII (D) (2)-(5) of this Policy.

- d. All Emergency fund disbursements shall have supporting documents properly filed at the *Leupp Chapter* Administration for financial audit purposes.
- e. The list of recipients utilizing Emergency Fund commodities distributed free-of-cost shall be accurately filed at the *Leupp Chapter*.
- f. The *Leupp Chapter* shall expend the Emergency Fund only after *Leupp Chapter* approval at an emergency *Leupp Chapter* meeting.
- g. All Emergency Fund revenues shall be recorded on a pre-numbered cash receipt, which should be summarized and classified, by the type of revenue generated. All generated revenues shall be posted into the Emergency Fund account.

2. Emergency Priority Listing and Eligibility Requirements:

The *Leupp Chapter* Emergency Funds shall only be used to provide relief support and services, in order of priority, to the following areas;

- a. **Priority One:** In every emergency and disaster incident, priority consideration shall be given to the welfare and care of high-risk elderly and individual(s) with health related conditions.
  - 1. Eligibility requirements:
    - i. Heart patients, elderly with illness, extreme cough and/or fever.
    - ii. Pregnant women with prenatal or post partum difficulties, newborn infants and children requiring medical attention.
    - iii. Diabetic, oxygen dependent, non-ambulatory, and recently discharged medical patients requiring constant medical attention.
- b. **Priority Two:** Priority consideration shall be given to main traveled roads that would allow community members to travel for food, water, hay and feed, fuel and medical attention.
  - 1. Eligibility requirements:
    - i. Snow, ice, and mud removal from roads leading to stranded families, high-risk, elderly and handicapped person(s).



- ii. Establish Emergency Response Team command center to coordinate the assessment, evaluation, and service delivery plan.
  - iii. Equipment repairs and maintenance not to exceed \$6,000.
  - iv. Purchase of gas and diesel fuel for any equipment engaged in providing emergency response relief.
  - v. Overtime compensation for temporary personnel engaged in emergency response.
  - vi. Lodging and meals for heavy equipment operator(s) engaged in emergency road clearance operations.
  - vii. Reasonable rental or lease costs for equipment.
- c. **Priority Three:** Ample supply of food, water, and fuel to sustain a family of five for 3-5 days may be expended from the Emergency Funds.
- 1. Eligible services:
    - i. Purchases of firewood, coal, food and water from private vendor.
    - ii. Emergency funds not exceeding \$ 200.00 per household to purchase food.
- d. **Priority Four:** Emergency Funds may be expended for temporary and short-term relief for a family of five [3-5 days] *used by families for their livelihood.*
- 1. Eligible services:
    - i. Purchases of hay, feed, salt blocks, veterinarian supplies/medication and water for sheep, horses, cattle, and other form of livestock.
    - ii. Emergency funds not exceeding \$ 200.00 per household.
    - iii. Eligible household will participate in annual livestock tally counts and livestock management education, conducted by the Grazing Officer.
    - iv. Upon *Leupp Chapter* Membership approval the products can be resold at below market value.

F. Matching funds between agencies: Emergency funds may be used to provide matching funds or as a supplement to the delivery of relief services from the Navajo Nation Government, State Government, County Government, Bureau of Indian Affairs Roads Department and National Guard, and may include such items as fuel or temporary equipment operator(s) through a Memorandum of Agreement (MOA). The MOA shall be initiated when the President of the *Leupp Chapter* declares an Emergency or the Emergency Management Commission issues its Emergency bulletin.

G. Standard Criteria For Declaration of Emergency or Disaster:

The *Leupp Chapter* shall use the following criteria to determine whether an emergency or disaster exists in the community. (Refer to Exhibit J, Standard Criteria for further details).

- a. The lives and/or basic well being of persons and/or livestock in the community are in jeopardy due to the impact of a severe weather related, natural disaster or human cause.
- b. Conditions resulting from natural or weather related events severely obstruct the access of person(s) and/or livestock to obtain critical life sustaining supplies and resources.
- c. Community utilities have stopped functioning, which jeopardizes community services, communications and emergency care systems.
- d. A need for emergency assistance exists necessary to safeguard the lives of persons and/or livestock which cannot be met with existing local resources.
- e. The National Weather Service and/or the Department of Emergency Management Commission broadcasts notification of imminent danger of a natural disaster. Notification can also come from other direct sources, including local *Leupp Chapter* Officials and members.
- f. A major unforeseen disaster is caused by human acts such as a chemical spill, major roads obstruction, or terrorist act.
- g. Major plague or illness is present such as the West Nile Virus, Bird Flu, Hanta Virus, etc.

H. Purchasing Method(s) For Emergency Fund:

- a. The *Leupp Chapter* shall utilize the Fund Approval Form procurement method and cycle in Section VI (A) for all weather-related emergencies or natural disasters.



- b. The *Leupp Chapter*, when practical, shall utilize the Purchase Order procurement method and cycle in Section VI (D) for emergency prevention and maintenance situations.

**VII. COMPETITIVE SEALED BIDDING AND CONTRACTING FOR PROCUREMENT EXCEEDING \$50,000**

- A. It shall be the policy of the *Leupp Chapter* to follow all funding source guidelines and restrictions as well as applicable Navajo Nation laws when contracting for all professional services and any procurement exceeding \$ 50,000.
- B. Competitive Sealed Bidding is the currently preferred method of source selection for all professional services and any procurement exceeding \$ 50,000 by local governance certified Chapters, and shall be conducted in a manner consistent with the procedures set forth in the Navajo Business Opportunity Act at 5 N.N.C. § 205, as amended. Notwithstanding the competitive sealed bidding procedures under 5 N.N.C. § 205, the *Leupp Chapter* may use any procedures for Qualification Based Selection (QBS) approved in the future by the Navajo Nation Council to be used by local governance certified *Leupp Chapters* in the selection of certain professional services, including architects, engineers, and land surveyors.
- C. *Leupp Chapter* Contract Requirements:
  - 1. Any contract authorized to be executed on behalf of the *Leupp Chapter* shall meet the following conditions:
    - a. Contracts shall not waive the sovereign immunity of the Navajo Nation or *Leupp Chapter* and shall expressly state that nothing herein may be construed as a waiver of the sovereign immunity of the Navajo Nation and the *Leupp Chapter*.
    - b. All contracts shall have sufficient funds appropriated and available.
    - c. All contracts shall comply with the Navajo Business Opportunity Act, 5 N.N.C. §§ 201 *et seq.*, the Navajo Business Procurement Act, 12 N.N.C. §§ 1501 *et seq.*, as amended, and the Navajo Employment Preference Act, 15 N.N.C. §§ 601 *et seq.*, as amended, any rules and regulations promulgated thereto, and any other applicable Navajo Nation law.
    - d. All contracts shall be awarded only after public advertisement and bidding *except* where otherwise authorized as purchases less than \$50,000, Emergency Fund purchases, Sole Source purchases, or qualification based selection pursuant to procedures approved for local governance certified *Leupp Chapters* by the Navajo Nation Council.

- e. All change orders, modifications or amendments of contracts utilizing Navajo Nation funds and *Leupp Chapter* general funds shall not exceed 10% of the accepted bid. If the 10% cap is exceeded by any change orders, modifications or amendments, such change orders, modifications or amendments shall be subject to re-bid.
- f. All contracts shall expressly state that the liability of the *Leupp Chapter* and the Navajo Nation under the contract is contingent upon the availability of appropriations by the Navajo Nation Council and any other funding source necessary to carry out the *Leupp Chapter's* obligations under the contract.

2. Invitation for Bids:

- a. The *Leupp Chapter* Manager, with technical assistance from the Navajo Regional Business Development Office and the Navajo Nation Business Regulatory Office staff, and in consultation with the *Leupp Chapter* Officials, shall prepare the Invitation for Bids, which shall include a purchase description, all contractual terms and conditions applicable to the procurement, and the necessary qualification requirements of contractors and supplies needed to provide the goods or services. The following qualifications and documentation shall be required:
  - (1.) Contractors Federal Identification Number
  - (2.) Tax ID Number from Navajo Tax Commission
  - (3.) Experience and expertise
  - (4.) Navajo Preference
  - (5.) Professional liability insurance
  - (6.) Workmen's Compensation
  - (7.) Bonding/Security for the construction
  - (8.) Mandatory pre-bid conference attendance
  - (9.) Resume of owner(s)
- b. The *Leupp Chapter* Manager shall determine the maximum or feasible price or cost of the contract or procurement prior to soliciting bids and proposals. The maximum feasible price or cost must take into account the market price, architectural and engineering estimates, budgetary constraints and prototype cost. This information may not be revealed until the award of the contract. Any *Leupp Chapter* employee or *Leupp Chapter* Official who provides such information may be held criminally and/or civilly liable.
- c. Dates for the following shall be set by the *Leupp Chapter* Manager, in consultation with the *Leupp Chapter* Officials, and with technical assistance from the Navajo Nation Regional Business Development Office staff:

- (1.) Advertisement date, commencing and ending
  - (2.) Pre-conference dates
  - (3.) Site walk through
  - (4.) Actual submission date for proposal
  - (5.) Actual date for opening of bids, proposal and cost
  - (6.) Selection of a Contractor
  - (7.) Project completion time
  - (8.) Contract formulization (signing of contract)
  - (9.) Contract commencement
  - (10.) Dates for period deliverable and payment for services
  - (11.) Close out of contract/final reports
- d. After preparing the invitation for bid solicitation, the *Leupp Chapter Manager* shall provide ten (10) days public notice or invitation to bid in a newspaper having general circulation and distribution within the Navajo Nation; or, shall provide notice or invitation to bid by mail or facsimile to all certified businesses listed on the Navajo Nation Source List compiled and maintained by the Navajo Nation Business Regulatory Department. The Notice of invitation to bid shall include:
- (1.) The requirements, descriptions, classification and specifications of the goods or services requested;
  - (2.) The deadline dates for submission of bids, bid openings, award and any other significant dates;
- e. To demonstrate that competitive bidding was performed, the *Leupp Chapter* shall maintain a copy on file of the solicitation used to obtain the bids. In addition, if the *Leupp Chapter* used the advertising mechanisms to place the solicitation announcement, the *Leupp Chapter* shall maintain a copy of the announcement and an indication of where and when such announcement was placed.
- f. A pre-bid, pre-proposal, or a pre-contract conference shall be held to provide additional information only obtainable by seeing the site of service, construction site, or individuals with whom the contract is to be performed.
- g. Once the actual submission date for bids/proposals has expired, no late bids or proposals shall be accepted. All bids shall be submitted to the *Leupp Chapter* and shall be received and stamped at the *Leupp Chapter* administration by the *Leupp Chapter* Administrative Assistant. The *Leupp Chapter* Manager shall ensure that all bid documents received are recorded and safeguarded in a safe or under lock and key until the bid opening date.
- h. Bid Opening Procedures and Requirements; The following procedures shall be used at bid openings when there is more than

one priority business submitting a bid pursuant to 5 N.N.C. § 205 (E):

- (1) The bid opening will be at a designated site and announced two (2) weeks in advance through the local news media. A declaration by the *Leupp Chapter* President to the public attending shall be made that all bid information is confidential and subject to the Navajo Nation Privacy Act, 2 N.N.C. §§ 81 *et seq.*, the Navajo Nation Ethics in Government Act, 2 N.N.C. §§ 3741 *et seq.*, and all other applicable Navajo Nation criminal and civil laws.
- (2) The *Leupp Chapter* Manager, in the presence of witnesses, including the *Leupp Chapter* Officials, shall open all bids publicly. The amount of each bid, and such other relevant information as may be specified by regulations, together with the name of each bidder, shall be recorded; the record and each bid shall be open to public inspection, to the extent permitted by the Navajo Nation Privacy Act, 2 N.N.C. §§ 81 *et seq.*
- (3) Bid Acceptance, Evaluation and Selection: Bids shall be unconditionally accepted without alteration or correction, except as authorized by the Navajo Business Opportunity Act, or other provisions of applicable law. The *Leupp Chapter* Manager and *Leupp Chapter* Officials shall evaluate all bids based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. The criteria affecting the bid price and considered in evaluation for award shall be objectively measurable, and may include discounts, transportation cost, and total or life cycle costs. No criteria may be used in bid evaluation that is not set forth in the Invitation for Bids.
- (4) Correction(s) or Withdrawal of Bids: Cancellation of Awards, correction(s) or withdrawal of inadvertently erroneous bids before or afterward, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening, no changes in bid prices or provisions of bids prejudicial to fair competition shall be allowed. All decisions to permit correction or withdrawal of bids shall be supported by a written determination made by the *Leupp Chapter* Manager, and in consultation with the *Leupp Chapter* Officials.
- (5) Contract Award: the contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the



requirements and criteria set forth in the Invitation for Bids, and whose bid is within the Maximum Feasible Cost. In the event all bids exceed available funds, as determined by the *Leupp Chapter* Manager, and the low responsive and responsible bid does not exceed such funds by more than five (5%) percent, the *Leupp Chapter* Manager and the *Leupp Chapter* Officials shall be authorized to negotiate with the bidder to adjust the bid price in order to bring the bid within the amount of the available funds.

- (6) The *Leupp Chapter*, prior to contract formation, shall approve the contract award or the negotiated bid at a regular duly called *Leupp Chapter* meeting. When the contract is formed, executed by the other party, and approved by the *Leupp Chapter* Membership, the *Leupp Chapter* President shall sign and execute the contract on behalf of the *Leupp Chapter* in accordance with 2 N.N.C. § 222 (D) and other applicable law.

3. Competitive Sealed Proposals:

A contract may be entered into by competitive sealed proposal if the *Leupp Chapter* Manager determines in writing to the *Leupp Chapter* Officials that the use of competitive sealed bidding is either not practical or not advantageous to the *Leupp Chapter*. The competitive sealed proposals process shall be conducted in a manner consistent with the procedures set forth in the Navajo Business Opportunity Act at 5 N.N.C. § 205.

4. Request for Proposals:

- a. The *Leupp Chapter* Manager shall prepare a Request for Proposal, including a purchase description, and all contractual terms and conditions applicable to the procurement. The Request for Proposals shall also set forth the criteria to be used in evaluation of proposals. The Request for Proposals shall also refer to the preference of Navajo and Indian-owned business under the Navajo Nation Business Opportunity Act.

- b. Maximum Feasible Cost:

The *Leupp Chapter* Manager, with assistance from the Navajo Nation Regional Business Development Office staff, shall develop, prior to advertisement of the Request for Proposals, a maximum feasible cost if a service is to be performed, based on the following:

1. Architectural and engineering estimates
2. Market price
3. Budget allocation
4. Prototype cost

c. **Public Notice:**

A minimum of ten (10) days public notice of the Request for Proposal shall be given before the opening of proposals, with dates on submission of proposals and proposal selection. It shall be the normal practice of the *Leupp Chapter* to provide notice or invitation to bid to certified businesses listed on the Navajo Nation Business Source List compiled and maintained by the Navajo Nation Business Regulatory Department. The public notice may also be published in a newspaper with regular circulation.

d. **Opening of Proposals:**

(1) Proposals shall be opened publicly by the *Leupp Chapter* Manager in the presence of witnesses, including the *Leupp Chapter* Officials. The proposals shall be tabulated in a Register of Proposals that will be set up by the *Leupp Chapter* Administrative Assistant, and shall be available for public inspection after the contract award, to the extent provided for in the Navajo Nation Privacy Act, 2 N.N.C. § 81 *et seq.* All opening of Proposals for procurement amount in excess of \$ 50,000 shall be governed by Request for Proposals procedures under the Navajo Nation Business Opportunity Act at 5 N.N.C. § 205 (E).

(2) The opening of all Requests for Proposals shall follow the same procedures promulgated at Subsection 2 (h) of this section.

e. **Evaluation Factors:**

Request for proposals shall state the relative importance of price and other evaluation factors. The *Leupp Chapter* Manager and the *Leupp Chapter* Officials shall evaluate all proposals, which will include criteria to determine acceptability such as inspections, testing, quality, workmanship, delivery and suitability for a particular purpose. No criteria may be used in proposal evaluation that is not set forth in the Request for Proposals.

f. **Revisions to Proposals:**

As provided for in the Request for Proposals, the *Leupp Chapter* Manager may, after public notice but prior to bid closing date, conduct discussions with the responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award, for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements. Offerors shall be afforded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission

and prior to award for the purpose of obtaining a best and final offer. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

g. Award:

- (1) The *Leupp Chapter* Manager with assistance from the Navajo Nation Regional Business Development Office staff will determine in writing to the *Leupp Chapter* Officials which proposal is the most advantageous to the *Leupp Chapter*, taking into consideration price and the evaluation factors set forth in the Request for Proposals. No other factors or criteria except those criteria set forth in the Request for Proposals shall be used in the evaluation. The contract file shall contain the basis on which the award is made, and shall be made public to the extent provided for in the Navajo Nation Privacy Act, 2 N.N.C. §§ 81 *et seq.*
- (2) The contract shall be awarded within five (5) days by written notice from the *Leupp Chapter* Manager to the selected offeror whose proposal meets the requirements and criteria set forth in the Request for Proposals, and whose proposal is within the Maximum Feasible Cost.
- (3) The *Leupp Chapter*, prior to contract formation, shall approve the contract award or the negotiated award at a regular duly called *Leupp Chapter* meeting. Once the contract is formed and executed by the other party, the *Leupp Chapter* President shall sign and execute the contract on behalf of the *Leupp Chapter*, in accordance with 2 N.N.C. §222 (D) and other applicable law.

D. Cancellation of Invitation for Bids or Requests for Proposal:

An Invitation for Bids, a Request for Proposals, or other solicitation may be cancelled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, or when it is in the best interest of the *Leupp Chapter*. This shall be expressly stated in the Invitation for Bids, the Request for Proposals, or any other solicitation.

E. Responsibility of Bidders and Offerors:

1. Determination of Non-responsibility:

The *Leupp Chapter* Manager may make a written determination of non-responsibility of a bidder or offeror. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror.



2. Right of Nondisclosure:

Information furnished by a bidder or offeror pursuant to this section shall only be disclosed in accordance with the applicable provisions of the Navajo Nation Privacy Act, 2 N.N.C. §§ 81 *et seq.*

F. Contract Performance and Payment Bonds:

1. When a construction contract is awarded in excess of \$50,000, the following bonds or security shall be delivered to the *Leupp Chapter* administration and shall become binding on the parties upon the execution of the contract:

- a. A performance bond satisfactory to the *Leupp Chapter*, executed by a surety company, in an amount equal to 100% of the price specified in the contract.
- b. A payment bond, satisfactory to the *Leupp Chapter*, executed by a surety company, for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to 100% of the price specified in the contract.

G. Construction and Construction Related Contracts:

1. For all construction and construction related procurement exceeding \$50,000.00, the *Leupp Chapter* Manager, or the *Leupp Chapter*'s legal counsel, as applicable, shall consult with the Navajo Nation Department of Justice and shall use a contract template approved by the Department of Justice.
2. Sponsor-Lead Agency Agreement: The *Leupp Chapter* Manager shall determine, in consultation with the *Leupp Chapter* Officials, whether it is in the best interest of the *Leupp Chapter* to have guidance or assistance from a Navajo Nation division, department or program for a particular construction or construction related project. If the *Leupp Chapter* Manager determines that such guidance or assistance is in the best interest of the *Leupp Chapter*, the *Leupp Chapter* shall enter into a Sponsor-Lead Agency Agreement with the appropriate Navajo Nation agency with assistance from the Navajo Nation Department of Justice.

H. Sole Source Procurement:

- A. A contract may be awarded for goods and services without competition when there is only one source for the unique required goods and/or service needed in a single procurement of \$20,000 or less. The *Leupp Chapter* Manager, in consultation with *Leupp Chapter* Officials and the Navajo Nation Department of Justice or the *Leupp Chapter*'s legal counsel, shall

determine the unique procurement nature and need and shall make written justification of a single source for the goods or services. The written determination and justification and the selection of the unique contractor shall be included in the contract file. Certified entities under the Navajo Business Opportunity Act shall receive preference in sole source procurement. A *Leupp Chapter* resolution shall be required to certify the selection of the vendor and the purchase of goods or services.

- B. Sole Source Procurement shall not be used to circumvent the requirements for competition under this Procurement Manual. Any reckless or intentional circumvention of the requirements for competition in procurement under the *Leupp Chapter's* procurement policies or other applicable law shall subject any involved parties to civil and/or criminal liability.

I. Procurement of Licensed Professional Services:

- 1. For the purpose of procuring the services of accountants, auditors, architects, engineers, electricians, or other licensed professional services, the *Leupp Chapter* Manager may determine in writing to the *Leupp Chapter* Officials that the use of the competitive sealed bidding process is either not practical or not advantageous to the *Leupp Chapter*.
- 2. The *Leupp Chapter* may then procure said services by competitive sealed proposals. The competitive sealed proposals for licensed professional services shall be conducted in a manner consistent with the procedures set forth in the Navajo Nation Business Opportunity Act at 5 N.N.C. § 205, *unless* otherwise authorized as small purchases, emergency purchases, or sole source purchases under the *Leupp Chapter* Procurement Manual, or qualification based selection of professional services authorized by other applicable law.
- 3. For all professional services contracts, the *Leupp Chapter* Manager, or the *Leupp Chapter's* legal counsel, as applicable, shall consult with the Navajo Nation Department of Justice and shall use contract templates approved by the Department of Justice.

## VIII. INSPECTION, ACCEPTANCE OR REJECTION

A. Policy:

All goods or services received by the *Leupp Chapter* shall be inspected and evaluated for acceptance or rejection. Contracts for the sale of goods and Buyer's rights to inspect, accept, or reject goods are governed by the Navajo Uniform Commercial Code, 5A N.N.C. §§ 1-101 *et seq.*

B. Procedures:

The following procedures shall be maintained for the inspection, acceptance or rejection of goods or services:

1. Upon receipt of goods and/or services the *Leupp Chapter* Administrative Assistant shall examine the shipping documents and compare such documents with the original purchase order receiving copy.
2. The *Leupp Chapter* Administrative Assistant shall verify the items and quantities received are correct according to the original purchase order.
3. The *Leupp Chapter* Administrative Assistant shall prepare a receiving report of the goods and/or services received by the *Leupp Chapter* and forward all documents (receiving reports, shipping documents, invoices, etc.) to the *Leupp Chapter* Manager for inspection, acceptance or rejection.
4. The *Leupp Chapter* Manager shall be responsible for inspecting and accepting or rejecting goods received based on the following:
  - a. Freight damaged merchandise
  - b. Shortage in shipments/overage
  - c. Low quality or non-conforming goods
  - d. Unauthorized order or shipment
5. If any of the discrepancies described above in Section IX (B) (4) are found during the *Leupp Chapter* Manager's inspection, the *Leupp Chapter* Manager shall notify the vendor(s) immediately to arrange for a method to return the merchandise, or to arrange for cure or other corrective measure satisfactory to both parties. For the *Leupp Chapter's* specific right to reject goods, in whole or in part, see 5A N.N.C. § 2-601
6. To save time and cost, the *Leupp Chapter* Manager may pick-up the merchandise at a vendor's commercial establishment where the goods can be examined and inspected.

## **IX. INVENTORY CONTROL**

### **A. Resale Inventory:**

The development and implementation of a resale inventory policy prevents overstocking, shortage and loss as a result of theft, spoilage, breakage, etc.

1. The *Leupp Chapter* shall maintain detailed records of inventory items showing the description, cost, quantity and location of all inventories.
2. The total dollar value of inventory items and the price changes shall be recorded in the *Leupp Chapter's* financial records.
3. Verification of inventory shall be made on a monthly basis through a physical count.
4. Any differences in the financial records shall be investigated for cause and the records adjusted accordingly. Any adjustment to the records shall require a justification memorandum by the *Leupp Chapter* Manager.

5. The inventory shall consist of goods purchased and/or produced for resale. Examples of such inventory are hay, grain, craft items and fuel for households.
6. First-in-First-Out (FIFO) Inventory Method: The *Leupp Chapter* shall use the FIFO inventory method. It is based on the assumption that the first items in are the first out of inventory. Under this method, the ending inventory balance will reflect the cost of the most recent purchases. The advantage of this method is that it gives an up-to-date inventory value.
  - a. The following example illustrates the use of the FIFO method for one inventory item under a perpetual inventory system. In this method, a cost must be assigned to each item of inventory purchased or sold.

*March - INVENTORY LOG*

Date 2006	Quantity	Unit Cost	Sale(s)	On- hand	Adj.	Amount	Balance (Inventory)
03/02	100	1.50		100		150.00	\$ 150.00
03/10	50	1.60		150		80.00	\$ 230.00
03/15		1.60	100	50		160.00	\$ 70.00
03/16		1.60	25	25		40.00	\$ 30.00
03/17	10 busted bales	1.60		15	16.00	16.00	14.00
03/20	25	1.60		40		40.00	\$ 54.40

- b. The *Leupp Chapter* will also use the FIFO inventory method for all resale items. Determining the cost and value of the resale items will depend upon the following factors:
    - (1.) Cost to produce the item
    - (2.) Economic demand for the item
    - (3.) Comparable price on the market
    - (4.) *Leupp Chapter* Membership approval of sale price (hay, grain, etc.)
7. The *Leupp Chapter* shall maintain support documentation on all inventory transactions on an ongoing basis. These inventory records shall reflect the inventory receipts, issuances and balances. The inventory record keeping and custodial functions shall be segregated for internal control measures.
  - a. Inventory Sales Receipt (cash receipt): A pre-numbered and numerically controlled sales receipt form shall be prepared in duplicate for each sale. Each form shall be properly prepared and have the following information: number and quantities issued; unit sale price; vendor; date; total amount of sales; and the signature of the employee who sold the inventory. The inventory sale receipts shall be reconciled with the inventory records on a monthly basis, or whenever necessary.



8. Inventory Control Procedures:

- a. The *Leupp Chapter* Administrative Assistant, at the time of inventory count, shall obtain the current perpetual inventory record and cross reference items during a physical count to determine whether any items are missing, damaged, spoiled, or obsolete.
- b. The *Leupp Chapter* Administrative Assistant shall report any discrepancies to the inventory immediately to the *Leupp Chapter* Manager.
- c. The *Leupp Chapter* Manager shall review the inventory count listing and any findings by the *Leupp Chapter* Administrative Assistant. If there is a major deficiency or changes in the inventory not properly recorded, the *Leupp Chapter* Manager shall consult with the *Leupp Chapter* Officials as soon as possible, and correct the deficiencies with the help of the *Leupp Chapter* Administrative Assistant. Any changes to the inventory shall require a justification memorandum.
- d. The *Leupp Chapter* Administrative Assistant shall handle all daily inventory record keeping. The *Leupp Chapter* Manager shall perform a monthly physical count and reconciliation of cash receipt tickets to the inventory records.
- e. The *Leupp Chapter* Manager shall use a fair market value determination in the resale of any items.

X. DEFINITIONS

The language contained in this section applies generally to this policy manual except as otherwise provided elsewhere in the Five Management Systems.

- A. Accounting - Accounting means the methods and records established and maintained to identify, assemble, analyze, classify, record and report a *Leupp Chapter*'s financial transactions; and to maintain accountability.
- B. Administrative Functions - are those activities of the *Leupp Chapter* government which are non-legislative, and which are performed by *Leupp Chapter* employees.
- C. Bid - is a formal submission made as an offer by a potential supplier or service provider to provide goods and/or services to the *Leupp Chapter*, which includes information such as pricing, delivery schedule and other information related to the bidder's ability to provide the goods and/or services. A bid is evolved from the bidding process. A bid is not considered to be a binding offer by a vendor.
- D. Blanket Purchase Order - means a purchase method to acquire goods or services other a direct fund disbursement (check). For example: The *Leupp Chapter* might wish to use a blanket purchase order to encumber a certain fund and to ensure that goods or services are received on regular basis.

- E. Leupp Chapter Employee - means a person employed by the *Leupp Chapter* government or administration and governed by the *Leupp Chapter's* Personnel Policies under its Five Management System.
- F. Leupp Chapter Manager - is the executive level professional who is hired by the *Leupp Chapter* to be responsible for administering the Five Management Systems and the everyday administration of the *Leupp Chapter*.
- G. Leupp Chapter Officials - means the following public Officials elected by the registered *Leupp Chapter* Membership: *Leupp Chapter* President, *Leupp Chapter* Vice-President, and *Leupp Chapter* Secretary/Treasurer.
- H. Leupp Chapter - means a political subdivision of the Navajo Nation considered as a general-purpose local government for reporting purposes of the Navajo Nation. The word "*Leupp Chapter*" is also used as a reference to the land and the people of such subdivision.
- I. Leupp Chapter Resolution - means the document recording the official action taken by the *Leupp Chapter* Membership at a duly called *Leupp Chapter* meeting, and certified by the presiding *Leupp Chapter* official.
- J. Construction - means the process of building, altering, repairing, improving, or demolishing any public, structure or building, or other public improvement of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, building or real property.
- K. Contract - means all types of *Leupp Chapter* agreements, regardless of what they may be called, for the procurement or disposal of supplies, services, or construction. The term contract does not include agreements, including prime contracts and grants, between the *Leupp Chapter* and Navajo Nation, or the federal, state, and county government for the provision of governmental services to Navajos and other persons within the *Leupp Chapter*.
- L. "Cost Plus" Contract - means paid on the basis of a fixed fee or a percentage added to actual cost.
- M. Custodian - means an individual fiduciary entrusted with guarding and having day-to-day charge of official books, records, documents, equipment, property and funds of the *Leupp Chapter*.
- N. Emergency Purchases - means an unforeseen and dangerous situation requiring immediate purchasing action by the *Leupp Chapter* to restore peace, health and safety for the people or their property.
- O. Five Management System - means a system for the administration of the *Leupp Chapter* government which includes fiscal, procurement, records, personnel and property management policies and rules.

- P. Navajo Nation Law - means Navajo statutes, administrative rules and regulations and Navajo Fundamental law.
- Q. Personal Property - is all supplies, materials, and equipment and other property, including expendable and non-expendable property, capitalized and non-capitalized, but which does not include real property or fixtures.
- R. Procurement – means buying, purchasing, renting, leasing, or otherwise acquiring any goods, services or construction related projects. It also includes all functions that pertain to the obtaining of any goods, services or construction related projects, including any requirements for said procurement, any selection and/or solicitation of sources, vendors, or contractors, and the preparation and award of any contract and all phases of contract administration.
- S. Proposal – means an offer to perform a contract for the performance of work and labor and/or the delivery of goods sought where it is neither practicable nor advantageous to the *Leupp Chapter* to procure specified types of supplies, services, or construction projects by competitive sealed bidding.
- T. Request for Proposal – means all documents and information, whether attached or incorporated by reference, utilized for soliciting proposals.
- U. Real Property (*Leupp Chapter*) - is any interest in land, together with the improvements, structures and fixtures located thereon.
- V. Responsive Bidder – means a person who has submitted a bid, which conforms in all material aspects to the Invitation for Bids.
- W. Responsible Bidder or Offeror – means a person who has the capability in all aspects to perform fully the contract requirements with integrity and reliability, and who will assure good faith performance.
- X. Services – means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports, which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- Y. Supplies – means all property, including but not limited to equipment, materials, printing, insurance, and lease of real property, excluding land or a permanent interest in land.
- Z. Vendor - means a person or a commercial establishment that sells goods or services. Example: one who has goods in a public place.



## **XI. APPENDICES**

A.	NN Business Opportunity Act	Exhibit A
B.	NN Access to Information and Privacy Act	Exhibit B
C.	Navajo Uniform Commercial Code	Exhibit C
D.	Fund Approval Form	Exhibit D
E.	Purchase Requisition (PR)	Exhibit E
F.	Purchase Order (PO)	Exhibit F
G.	<i>Leupp Chapter</i> Requisition Form	Exhibit G
H.	Receiving Report	Exhibit H
I.	Request for Quotation Form	Exhibit I
J.	Standard Criteria for Declaration of Emergency or Disaster	Exhibit J
K.	Bid Tabulation Form	Exhibit K
L.	Bid Evaluation Form	Exhibit L

RESOLUTION OF THE  
NAVAJO NATION COUNCIL

20th NAVAJO NATION COUNCIL -- Third Year, 2005

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; TITLE FIVE OF THE NAVAJO NATION  
CODE; APPROVING AMENDMENTS TO THE NAVAJO NATION BUSINESS OPPORTUNITY  
ACT

BE IT ENACTED:

The Navajo Nation Council hereby approves the following amendments to  
the Title 5, Navajo Nation Code, Chapter 2:

*Title 5, Navajo Nation Code*

*Commerce and Trade*

*Chapter 2. Navajo Nation Business Opportunity Act*

§201. Title; Findings; Legislative Purpose And Intent

A. This Act shall be known and cited as the Navajo Nation Business  
Opportunity Act; Title 5, Navajo Nation Code, Sections 201 through 215  
~~216~~.

B. Whereas the Navajo Nation Council finds:

1. The Navajo Nation is comprised of more than 25,000 square miles  
of land;
2. The Navajo Nation population now exceeds 250,000 members, of  
which over 175,000 members reside within the Navajo Nation. In  
addition, residents of the Navajo Nation include approximately  
8,000 non-Navajos;

3. The unemployment rate of the Navajo Nation is approximately 50%;
4. In 1996, the United States Congress enacted the Personal Responsibility and Work Reconciliation Act of 1996 (P.L. 104-193 "Welfare Reform Act"). This Act will impact thousands of Navajo people. As a result, there is a need to accelerate the development of privately owned businesses and provide more employment opportunities;
5. There is a need within the Navajo Nation to accelerate business development and economic growth within the Navajo Nation;
6. Although the Navajo Nation has a population that is approximately 90% Navajo, approximately 76% of the contracts by the Navajo Nation between the years 1994 and 2003 were awarded to non-Navajos, according to the Navajo Nation contract award data; and
7. The Navajo Nation's sovereign status is directly related to its ability and authority to regulate all commercial activities within the Navajo Nation, including those of non-Indians and non-member Indians. In addition, the Treaty of 1868 between the Navajo Nation and the United States recognizes the inherent authority of the Navajo Nation to exclude non-Indians from the Navajo Nation. Pursuant to this authority, engaging in business within the Navajo Nation is a privilege granted by the Navajo Nation and is subject to such conditions as the Navajo Nation may require, subject to applicable federal law. The privilege of entering into the Navajo Nation for the purpose of engaging in business is therefore conditioned upon, among other things, compliance with this Act.

C. The purpose of this Act is to:

1. Promote the economic self-sufficiency of the Navajo Nation by granting "first opportunity" and/or preference in contracting to Navajo and/or Indian owned and operated businesses;
2. Promote competitive bidding and contracting opportunities among Navajo businesses;
3. Develop a dynamic and self sustaining private sector for the Navajo Nation;
4. Increase Navajo business and employment opportunities for the Navajo people;
5. Provide for business certification in accordance with current Navajo Nation laws; and
6. Regulate the conduct of those engaging in business within the Navajo Nation in order to protect and promote the economic security and welfare of the Navajo Nation.

D. It is not the intent of this Act to require the Navajo Nation or any other public entities or private entities to contract with non-qualified Navajo businesses.

E. It is the intent of this Act to grant first opportunity and contracting preference to qualified Navajo-owned or Indian-owned businesses for all contracts, subcontracts, grants and sub-grants ~~sponsored~~ issued by ~~the Navajo Nation and all~~ public and private entities within the Navajo Nation.

F. The provisions of this Act ~~shall~~ should be ~~applied as an affirmative action plan~~ liberally interpreted to promote economic development and the growth of Navajo-owned businesses within ~~on~~ the Navajo Nation.

G. The Navajo Nation shall determine the nature, composition, qualification, and preference certification of all businesses subject to the provisions of this Act.

#### §202. Definitions

For all purposes of this Act, the following definitions shall be applicable:

A. "Bid Shopping" is defined herein as any practice involving the solicitation or communication of any competitor's bid prior to and after bid opening, thereby providing an unfair advantage and opportunity to under bid any competitor.

B. "Bidders" is defined as buyers and sellers of goods and services who offer to perform a contract for work and labor or to supply services and goods at a specified price.

C. "Broker" is defined as buyers and sellers of goods and services including agents/negotiators between buyer and seller, who do not have custody of property or will not personally perform the contract to provide the goods or services.

D. "Dealer" is defined as one who buys to sell for resale, not one who buys to keep, or makes to sell.

E. "Established Business" is defined as an for-profit economic entity, firm or other organization, engaged in business activities with



ownership, custody and control of an existing adequate inventory or providing professional services with a published address and telephone number and making significant contributions to the Navajo economy.

F. "Front" is defined as a business claiming to having have 51% or more Navajo or other Indian ownership of any commercial, industrial, or other economic entity or organization, but ~~not having~~ without the Navajo or other Indian owner or owners exercising the major role a material participation in decision-making role in for operations, profit-sharing and actual management control.

G. "Navajo Indian" or "Navajo" is defined as a person who is an enrolled member of the Navajo Nation.

H. "Navajo Nation" shall have the same definition as used at 1 N.N.C. § 552 including:

1. When referring to governmental territory, all land within the territorial boundaries of the Navajo Nation, including:
  - a. All lands within the exterior boundaries of the Navajo Indian Reservation, including the Navajo Partitioned Land, or of the Eastern Navajo portion of the Navajo Nation, including Alamo, ToHajiilee, and Ramah, or of Navajo-dependent Indian Communities;
  - b. All lands held in trust by the United States for, or restricted by the United States or otherwise set aside or apart under the superintendence of the United States for the use or benefit of the Navajo Nation, the Navajo Tribe, any Band of Navajo Indians, or any individual Navajo Indian: and
  - c. All other lands over which the Navajo Nation may exercise

governmental jurisdiction in accordance with federal or international law or to which the Navajo Nation has ownership through the Treaty of 1868.

2. When referring to the Navajo Nation government, shall include governmental entities, chapters, statutorily recognized townships, and Navajo Nation enterprises.

I. "Other Indian" is defined as an Indian other than Navajo who is an enrolled member of a federally recognized Indian Tribe within the United States.

J. "Owned and Controlled" is defined as having at least 51% or more ownership of any commercial, industrial, or other economic entity, firm or organization, provided that such ownership shall consist of active participation in decision making in operations, profit-sharing and actual management control.

K. "Prime Contractor" is defined as any party, or entity which undertakes, offers to undertake or purports to have the capacity to undertake contracting of a project for a specified price and is authorized and responsible for the management, coordination, completion, supervision or subcontracting for the contracted project.

L. "Procuring Party" is defined as the party that initiates the proceeding to cause a project to be bid for contracting.

M. "Prospective bidders" is defined as potential buyers or sellers of goods and services who offer to perform a contract for work and labor or supply services and goods at a specific price.

~~N. "Subcontractor" is defined as any party or entity to which any contract is let by the prime contractor or its subcontractor for~~

~~materials, equipment, transportation or other goods and services on that prime contract, regardless of tier.~~

N. "Private entity" is defined as a privately-owned business entity doing business on the Navajo Nation, including corporations which are wholly-owned by the Navajo Nation.

O. "Public entity" is defined as an entity which is a part of the Navajo Nation government.

P. "Subcontractor" is defined as any party or entity to which any contract is let by the prime contractor or its subcontractor for materials, equipment, transportation or other goods and services on that prime contract, regardless of tier.

#### \$203. Jurisdiction; Application; Compliance Requirements And Violations

A. *General Jurisdiction.* The Navajo Nation has the inherent sovereign authority to authorize and regulate business activities of business entities within the jurisdiction of the Navajo Nation, as defined in 7 N.N.C. §254.

B. *Application.* This Act shall apply uniformly to ~~the Navajo Nation Government including its enterprises and political subdivisions and chapters and private business entities who acquire goods and services through contracts with~~ all public and private entities engaging in business on the Navajo Nation and to the Navajo Nation itself. This Act shall apply to all procurement contracts exceeding \$50,000 and on a limited basis to those procurement contracts less than \$50,000, ~~which will be governed by the rules and regulations of the Navajo Nation Procurement Code~~  
~~(12 N.C.C. §§301-317).~~

C. *Inapplicability to Lease and Other Transactions.* This Act shall not apply to the negotiation, execution, award, transfer, assignment or approval of business site leases, home site leases, office space leases, shopping center leases, mineral or non mineral leases, subleases, permits, licenses and transactions that are governed by other applicable laws and regulations of the Navajo Nation and the United States. This Act shall not apply to activities of private persons who contract for goods or services for their individual use or benefit.

D. *Implementing Federal Indian Preference Laws and Regulations.* To the fullest ~~reasonable~~ extent possible, this Act and its rules and regulations shall be construed in accordance with applicable federal Indian preference laws and regulations. Specifically, with respect to any self-determination contract or portion of a self-determination contract intended to benefit the Navajo Nation, this Act and any other applicable tribal employment or contract preference laws shall govern with respect to the administration of the contract or portion of the contract in accordance with the Indian Self Determination and Education Assistance Act, 25 U.S.C §§450(e) (c) . If federal or state funded contracts specifically provide for the application of Indian preference rather than ~~the provisions of this Act~~ Navajo Preference, the contract letting or procuring entity party shall attempt to negotiate and agreement with such party in order to apply the provision of this Act. In the event if federal or state law expressly precludes the application of the provisions of the this Act, then application of Indian preference laws shall be applied and shall not constitute a violation of this Act.

~~E. Required Navajo Employment Preference Compliance. All public and private entities engaging in business on the Navajo Nation and the Navajo Nation itself government, its political subdivisions, enterprises, and chapters whether located on or off the Navajo Nation shall comply with this Act and the Navajo Nation Preference in~~

~~Employment Act. Subcontractors, brokers, agents, subsidiaries, successors and assigns shall also comply with this Act to the same extent as applicable to prime contractors.~~

~~E.F.~~ *Falsification or Concealment of Information; Sanctions and Penalties.* Any person who authorizes, or knowingly or recklessly omits, or allows, or falsifies, or otherwise misrepresents any fact or matter material to any determination required by this Act, shall be subject to all applicable sanctions and penalties provided under this Act and any other applicable laws or regulations of the Navajo Nation.

~~F.G.~~ *Bid-Shopping.* Bid shopping ~~as defined in §202(A)~~ shall be prohibited.

~~G.H.~~ *Conflicts of Interest: Disqualification.* No official or employee of the Navajo Nation government or entity of the Navajo Nation which is authorized to implement this Act shall promote, approve or participate in any matter pending before that agency or entity, in which such official or employee or any member of his or her immediate family has an economic or other special interest pursuant to the Navajo Nation Ethics in Government Law. The failure or refusal of such official or employee to abstain from such participation as required thereunder, shall render void any approval or action taken by the Navajo Nation Government or entity in which such official or employee participated, to the extent such action is favorable to the business entity in which such official or employee had an interest. The official(s) or employee(s) in conflict shall be subject to all applicable sanctions and penalties provided by law.

~~I.~~ *Other Compliance with Navajo Nation Business Requirements.* No business shall operate within the Navajo Nation without prior authorization, license or permit as required by the Navajo Nation.



*§204. Required Business And Contracting Preference Priorities; Certification Requirements.*

*A. Preference Priorities.* The Navajo Nation shall certify all businesses pursuant to the following Navajo business opportunity priority classification:

- 1. Priority #1.* Certification shall be granted to any 100% Navajo-owned and controlled business, having its principal place of business on or off the Navajo Nation.
- 2. Priority #2.* Certification shall be granted to any 51% to 99% Navajo or 51% to 100% other Indian owned and controlled business or 100% Navajo Nation owned and controlled economic enterprise having its principal place of business on or off the Navajo Nation.

*B. Obtaining a Priority Certification and Required Compliance.* To receive a priority certification under this Act, the business must satisfactorily demonstrate that the business meets the requirements of §204 (A) (1) or (2).

*C. Appeal of Priority Certification Determination.* Any business denied a priority classification may appeal the determination pursuant to §211 hereof.

*B. Conditions and Requirements for Broker and Dealer Certification; Established Businesses.* Brokers and dealers as defined in §202 of this Act shall be certified for those activities which brokers and dealers normally conduct throughout the United States, subject to pre qualification by the contract-letting, purchasing or procuring entity requesting such broker and/or dealer's services. Certification of brokers and dealers shall further be limited to those having an

established business as defined in §202 herein and certified only for the services being performed. Certification of any broker or dealer shall not qualify any other entity, firm or organization thereof. Such other entities, firms or organizations shall be Individually subject to the provisions and conditions herein.

E. *Partnership Certification.* To be certified as eligible for any Navajo Business Opportunity hereunder, Navajo or other Indian ownership and control must be at least fifty-one percent (51%) of the entire partnership business, as well as the project or transaction for which Navajo Business Opportunity is sought, regardless of the number of general or limited partners.

F. *Joint Venture Certification.* To be eligible for any Navajo Business Opportunity hereunder, Navajo or other Indian ownership and control must be at least fifty-one percent (51%) of the overall combined joint venture, as well as the project or transaction for which Navajo Business Opportunity is sought, with profits to be divided from each venture in proportion to such respective interest.

#### §205. Navajo Business Opportunity Procedures In Bidding And Procurement

~~A. Bid or Request for Proposal Solicitation. party shall first plan and prepare a bid or request for proposal solicitation that shall include the following:~~

~~1. The goods or services being procured;~~

~~2. The necessary qualifications of contractors or suppliers needed to provide the goods or services; and~~

~~3. Bid instructions and conflict resolution.~~

~~B. Advertisement and notice. After preparing a bid or request for proposal solicitation, the procuring entity shall:~~

- ~~1. provide notice or invitation to bid in a newspaper having general circulation and distribution within the Navajo Nation, or~~
- ~~2. Provide notice or invitation to bid by mail or telefax to certified businesses listed on the Navajo Nation Business Source List compiled compiled and maintained by the Business Regulatory Department; and~~
- ~~3. The notice or invitation to bid shall include:~~
  - ~~a. The requirements and specifications of the goods or services requested;~~
  - ~~b. The deadline dates for submission of bids or proposals, bid openings, award and any other significant dates, and~~
  - ~~c. The necessary qualifications of the business to provide goods and services.~~

A. Initial Determination of Maximum Feasible Price or Cost by Contracting or Procuring Party. The determination of the maximum feasible price or cost, in accordance with appropriate Business Regulatory Department rules and regulations, shall be made by the contracting or procuring party prior to soliciting bids and proposals. The maximum feasible price or cost may take into account market price, budgetary constraints and prototype cost and may not be revealed until the award of the contract.

B.D. Notice to the Business Regulatory Department. Prior to bid openings, the procuring party shall provide to the Business Regulatory

Department:

1. A copy of the bid solicitation;
2. A copy of the notice published in the newspaper; and
3. A list of all businesses notified, including the dates and manner of such notices.

C.E. *Bid Opening Procedures and Requirements.* The following procedures shall be used at bid openings when there is more than one priority business submitting a bid:

1. All bids submitted by Priority #1 businesses shall be opened first.
2. The procuring entity shall determine the qualifications of the bidders based on qualifications established in accordance §205 (A) (2). Bids submitted by businesses deemed non-qualified or non-responsive shall not be considered.
3. The award shall be made to the qualified Priority #1 bidder with the lowest responsive bid among the Priority #1 bidders provided the bid does not exceed the maximum feasible price or cost.
4. If there is no qualified Priority #1 bidder, or if there is no qualified Priority #1 bidder with a bid less than or equal to the maximum feasible price or cost, the bids of the Priority #2 businesses shall then be opened and award shall be given to the qualified Priority #2 bidder with the lowest responsive bid provided the bid is less than or equal to the maximum feasible price or cost.
5. If no qualified Priority #1 or Priority #2 bidder is entitled to award, bidding may then be open to all other bidder subject to the same specifications, qualifications and maximum feasible price or cost.



6. Any modifications of the specifications, qualifications or maximum feasible cost or price made subsequent to bid opening and which does not result in a contract award shall be rebid pursuant to the above procedures.
7. Notwithstanding any provision of this Act, in the event that applicable federal law prohibits bid or procurement opportunity or preference as provided herein or prohibits negotiations with a bidder other than the bidder with the lowest bid or price offer, the initial bidding shall be opened to all Priority #1 and #2 businesses; and award shall be made to the bidder offering the lowest price, provided that the bid is less than or equal to the maximum feasible cost or price.

D.F. *Subcontracting Requirements.* Prior to the bid opening, prime contractors shall submit to the Business Regulatory Department a subcontracting plan listing the following:

1. Subcontractors and suppliers to be used by the prime contractor;
2. Procedures used in selecting subcontractors and suppliers; and
3. Subcontracts or lease agreements for equipment to be used in performance of the contract.

E.G. *Prime and Subcontractor Performance Bonding:*

*Permitted Alternatives.* The prime contractor shall obtain surety bonding or other performance security from subcontractors to secure their performance and wage obligations including, but not limited to cash bands, letters of credit and cash monitoring systems such as retention, escrow and/or assignment of construction accounts. The prime contractor shall determine the form of performance security. The prime contractor shall maintain guaranteed security and be ultimately liable for performance of subcontractors.

F.4- *Minimum Subcontract and Procurement Percentage Requirements.* The Business Regulatory Department, ~~subject to the approval of the Economic Development Committee,~~ shall have the authority to require all procurement entities and prime contractors to comply with current minimum percentages for procurement and subcontract awards to Navajo-owned and controlled entities, firms and organizations, based upon availability and qualifications of such entities to provide specific products and services.

G.4- *Prior Approval of Modifications.* Any contract modification that results in a higher cost or price in excess of 20% of the original amount of the contract or if the procuring party substantially modifies such project; activity or transaction, shall be subject to review and approval by the Business Regulatory Department, to ensure that such modifications are not contrary to the purposes, intent or other provisions of other applicable laws.

H.4- *Required Adherence to Priority Certification.* Procuring entities shall not award contracts to non-Navajo owned and controlled entities at a price equal to or greater than the price offered by an equally qualified Priority #1 or #2 business.

#### \$206. Waivers

No Waiver of any requirement of this Act shall be granted except by valid resolution of the Navajo Nation Council.

#### \$207. Implementation And Compliance With Navajo Nation Business Opportunity Provisions; Specific Duties And Responsibilities

A. *Economic Development Committee.* The Economic Development Committee of the Navajo Nation Council shall have the responsibility and authority to review, amend, modify and approve proposed rules and regulations for implementation of this Act.

B. *Division of Economic Development.* The Division of Economic Development of the Navajo Nation shall be responsible for administering, enforcing and implementing the provisions herein.

C. *Business Regulatory Department.* The Business Regulatory Department within the Division of Economic Development shall be responsible for:

1. Developing and maintaining a certification program to determine the appropriate certification priority of business entities.
2. Promulgating rules and regulations to implement this Act. All proposed rules and regulations shall be published for public comments at least ninety (90) days prior to submission to the Economic Development Committee of the Navajo Nation Council for final review and approval.
3. Publishing, maintaining and making available approved rules, regulations, guidelines and forms including provisions of this Act, to ensure that all Navajo Nation entities, all business entities and the Navajo People are kept fully informed of all current laws, rules, regulations and procedures for compliance hereto.
4. Regularly reviewing such rules and regulations in coordination with other Navajo Nation entities and agencies for applicability to economic and market conditions and their relevance to the interests of the Navajo People and the Navajo Nation and the intent of this Act.
5. Enforcing compliance with this Act, pursuant to the intent of this Act and the rules and regulations adopted hereto; requiring applicability of this Act to any proposed contract, subcontract or other transaction to be performed within the Navajo Nation by or on behalf of the Navajo Nation; and requiring prebid, preconstruction or prequalification requirements as needed and appropriate to comply with this Act.

6. Coordinating efforts with federal agencies that require Indian preference or maximum utilization of minority business enterprises.
7. Maintaining and publishing a current Source List of all certified Priority #1 and #2 business entities, persons, firms, enterprises or organizations. By including an entity on such a Source List, the Business Regulatory Department in no way certifies that the entity is qualified to perform in the category in which it is listed. The purpose of this Source List is to utilize such list as a source document only for contract-letting and procuring parties required to determine and notify available Navajo and other Indian-owned entities in the respective areas of commerce which are subject to the provisions of this Act.
8. Providing, in accordance with its responsibilities, capabilities and available resources, in coordination with those of other responsible and appropriate Navajo Nation departments and entities, such community, governmental and business sector educational programs, information and advice as may be necessary and appropriate from time to time, to the continued understanding and awareness by such entities of the policies, objectives, and current procedural requirements for compliance with all provisions of this Act and the current rules and regulations adopted hereunder.
9. Recommend disciplinary action for Navajo Nation employees or officials found to be in violation or noncompliance with this Act pursuant to the applicable Executive, Judicial, or Legislative Navajo Nation Personnel Policies Manual, or the Ethics in Government Law.

\$208. Certification Of Eligible Entities And Authorization Of Business Activities

*Establishment of Procedure.* The Business Regulatory Department shall have the following duties, responsibilities and authority:



A. Require timely submission of information and documentation on percentage of ownership and organization structure as required herein for certification or recertification eligibility.

B. Deny certification if required information is not provided in a timely manner.

C. Renew, suspend or decertify certifications. Annual, temporary or conditional certifications may be issued based on the circumstances. Certifications shall be reviewed based on new information or changes in organization or operations which materially affect eligibility for certification. Reviews shall be conducted in a manner so as to avoid any loss of eligibility to entities entitled hereto.

D. Certified businesses entities shall be required to disclose changes in organization and/or ownership that may materially affect the eligibility for preference priority certification.

E. All confidential certification information shall not be disclosed except as necessary in a proceeding under this Act and other applicable laws.

#### §209. Monitoring And Enforcement

A. Navajo Nation Review and Approval Process. All proposed professional services, procurement and construction contracts shall be initially reviewed by the Business Regulatory Department for compliance with the Act.

B. Procedure Upon Alleged Violation. To investigate alleged violations or noncompliance of this Act, the Business Regulatory Department shall:

1. Investigate any alleged violation and/or complaint under this Act upon receipt of a written document.

2. Prepare a written summary of facts constituting a violation of the Act or applicable rules, and provide all statements of witnesses along with the summary thereof.
3. Initially seek voluntary compliance and appropriate remedial action pursuant to this Act.
4. If voluntary compliance or remediation is not possible, the Business Regulatory Department shall render a decision pursuant to this Act.
5. A decision by the Business Regulatory Department may be appealed pursuant to §210 of this Act.

C. Interim Project Suspension; Temporary Restraining Orders and Permanent Injunctive Relief from Navajo Nation Court.

1. In the event of a violation of or noncompliance with this Act presenting a probability of continuing material and irreparable harm which is greater than the harm from suspension of performance, the Executive Director of the Division of Economic Development shall, with assistance from the Navajo Nation Department of Justice, on behalf of the threatened interests of the Navajo Nation and of innocent third parties, immediately apply to the District Court of the Navajo Nation for a temporary restraining order and an order to show cause why permanent injunctive relief should not be granted (including orders to permanently cease and desist such performance as determined appropriate) according to the Navajo Nation Rules of Civil Appellate Procedure.
2. If a Navajo Nation Court orders suspension of performance, the Division of Economic Development shall take immediate remedial action as authorized by said Court to prevent or minimize material harm and damage to innocent third parties and to the interests of the Navajo Nation resulting or likely to result from such suspension of performance.

§210. Imposition of sanctions

Upon opportunity for hearing and determination as provided herein, the Administrative Hearing Officer may impose any and all of the following sanctions for violation of this Act or the rules and regulations lawfully promulgated hereunder:

- A. Civil monetary fines not to exceed five hundred dollars (\$500.00) per day, per violation.
- B. Suspension or termination of a party's authorization to engage in business activity on the Navajo Nation; provided that the party shall be given a reasonable time to remove its equipment and other property it may have on the Navajo Nation and to take such measures to facilitate the satisfaction or assumption of any contractual obligations it has.
- C. Prohibit the party from engaging in future business activity on the Navajo Nation for a specified period or permanently, pursuant to applicable laws of the Navajo Nation.
- D. Require the party to make such changes in its performance, organization or operations to comply with this Act.
- E. Impose other sanctions as appropriate to ensure compliance and to remedy any harm or damages from violation of this Act pursuant to applicable laws.
- ~~F. Recommend disciplinary action for Navajo Nation employees found to be in violation or noncompliance with this Act pursuant to the applicable Navajo Nation Personnel Policies Manual.~~
- G-F. Recommend corrective or remedial action to the President of the Navajo Nation, or the Navajo Nation Council or its appropriate standing committee for Navajo Nation entities in violation or

noncompliance with this Act.

§211. Appeals

A. ~~Divisions—Reviews~~ Appeals to Business Regulatory Department. Appeals can be made by those businesses who are denied priority certification or parties that are adversely affected by a decision with the Act. Appeals shall not include those matters which are found through an investigation conducted under §208 (b) of this Act to be private contractual disputes between parties. If a business is denied priority certification ~~or a party is adversely affected by a decision herein~~, the business may appeal the decision for administrative resolution to the Director of the Business Regulatory Department (or successor agency or designee) by filing with the Director a notice of appeal within ten (10) days of the date of the written adverse decision. The written notice of appeal shall:

1. Identify the business that was denied certification or license or adversely affected by a decision made pursuant to this Act; and,
2. Provide a short statement indicating the nature and circumstances of the denial or decision; and
3. State the basis for the appeal; and,
4. State the remedial action being sought by the business or party.

B. Appeals to the Hearing Officer. If the Director upholds the Department's decision to deny certification to the affected business, the appealing party may appeal the Director's decision to the Navajo Nation Office of Hearing and Appeals for assignment to an Administrative Hearing Officer.

1. The hearing officer shall hear the appeal within thirty (30) days of receipt of the notice of appeal.
2. Upon mutual agreement with the appealing party, time extensions in increments of not more than fifteen (15) days may be granted.

3. Notice shall be provided to the parties at least ten (10) days in advance of hearing date.
4. Each party at the hearing may be represented by legal counsel and shall have the opportunity to subpoena witnesses and documents, present evidence and examine witnesses.
5. After the hearing each party shall have ten (10) days to submit in writing proposed findings of facts and conclusions of law. The hearing officer may uphold or reverse the appealed decision(s) or any part thereof, but may not grant any other relief.
6. The hearing officer shall issue written findings of facts and conclusions of law that shall state the decision and grounds thereof.

C. *Appeals to the Courts.* The decision of the hearing officer may be appealed by the party adversely affected to the Navajo Nation Supreme Court pursuant to the Navajo Nation Rules of Civil Appellate Procedure. The court shall review the decision of the hearing officer and the administrative record only. The decision shall not be subject to de novo review on appeal. The court may substitute its judgment on those questions of law within its special competence but shall otherwise uphold the decision of the hearing officer where reasonable.

§212. Other Navajo Nation Entities And Associated Agencies All Navajo Nation entities, departments and other agencies involved in any stage of contracting, subcontracting or other procurement process shall comply with this Act in accordance with applicable law.

§213. Severability

If any provision of this Act or any rule or regulation adopted hereto is found invalid, the remainder of this Act and of the rules and regulations adopted hereto shall not be affected thereby.



§214. Effective Date

The effective date of this Act shall be the date of its approval by the Navajo Nation Council.

~~§215. Prior inconsistent Law Superseded~~

~~Upon the effective date of this Act, all prior inconsistent enactments, laws, policies, ordinances and regulations of the Navajo Nation are hereby superseded.~~

~~§215~~216. Periodic Review And Amendments

This Act may be amended from time to time only by the Navajo Nation Council upon the recommendation of the Economic Development Committee.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 53 in favor and 2 opposed, this 28<sup>th</sup> day of January 2005.

Lawrence T. Morgan, Speaker  
Navajo Nation Council

\_\_\_\_\_  
Date

Motion: Willie Tracey, Jr.

Second: Willie Begay

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c) (10) on this \_\_\_\_\_ day of FEB 11 2005.

---

Joe Shirley, Jr., President  
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this \_\_\_\_\_ day of \_\_\_\_\_ 2005 for the reason(s) expressed in the attached letter to the Speaker.

---

Joe Shirley, Jr., President  
Navajo Nation

CAP-48-99

**RESOLUTION OF THE  
NAVAJO NATION COUNCIL**

**Adopting the Navajo Nation Privacy and Access to Information Act**

**WHEREAS:**

1. Pursuant to 2 N.N.C. §102 (A) and (B), the Navajo Nation Council is the governing body of the Navajo Nation and all powers not delegated are reserved to the Navajo Nation Council; and

2. Pursuant to 2 N.N.C. §341, the Government Services Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council with the authority to monitor and coordinate the activities of all divisions and departments of the Executive Branch. In addition, pursuant to 2 N.N.C. §343 (B)(5), the Committee is authorized to recommend legislation to the Navajo Nation Council on matters within the Committee's jurisdiction; and

3. The Government Services Committee of the Navajo Nation Council, by Resolution GSCAP-27-99, attached hereto and incorporated herein as Exhibit "B", has recommended that the Navajo Nation Council adopt the Navajo Nation Privacy and Access to Information Act, set forth at 2 N.N.C. Subchapter 4, §§81-91; and

4. Pursuant to 2 N.N.C. §571, the Judiciary Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council with oversight responsibilities for the operation of the Judicial Branch. In addition, pursuant to 2 N.N.C. §574 (E)(2), the Committee is authorized to review legislation and make recommendations regarding any proposed or current laws, procedures and regulations affecting or creating any impact on the Judicial Branch; and

5. The Judiciary Committee of the Navajo Nation Council, by Resolution JCAP-4-99, attached hereto and incorporated herein as Exhibit "C", has recommended that the Navajo Nation Council adopt the Navajo Nation Privacy and Access to Information Act, set forth at 2 N.N.C. Subchapter 4, §§81-91; and

6. The Navajo Nation Council recognizes that a democratic form of government requires that information related to government operations be accessible to the public, while respecting individuals right to privacy. As such, a generally applicable Navajo Nation Privacy and Access to Information Act is necessary to provide the general public with a means to access records and information relating to the operation of the Navajo Nation while preserving the privacy interests of individuals and entities.

## **I. ACKNOWLEDGEMENT**

All Judicial Branch employees are bound by these Personnel Rules. Each employee shall sign an acknowledgement that he or she has received a copy of these Personnel Rules and that he or she has read them. The signing of this acknowledgement by the employee shall not constitute a contract between the employee and Judicial Branch of the Navajo Nation. The signed acknowledgement shall be maintained in the employee's official personnel file.

## **II. CITATION, SCOPE, AMENDMENTS, DEFINITIONS**

**Purpose.** This section provides the legal citation and authority for these personnel rules, indicates the scope of their application, and defines the terms used in this document.

### **Rule 1: Citation**

These policies shall be known as the Navajo Nation Judicial Branch Personnel Rules. They shall be cited as the JBPR. In 1977, personnel policies and procedures were adopted by the Judicial Branch of the Navajo Nation. These policies and procedures were revised in 1979, 1986, and 1996.

### **Rule 2: Scope**

The Judiciary Committee of the Navajo Nation Council is authorized to approve and adopt personnel policies by 7 N.N.C. § 401 (2003). These rules shall apply to all employees and positions within the Judicial Branch, except justices and judges.

Pursuant to 7 N.N.C. § 371 (2003), the Chief Justice of the Navajo Nation has both the sole responsibility and duty to administer the Judicial Branch. This includes all aspects of employment conditions and personnel matters. In unique circumstances, the Chief Justice retains the discretionary authority to waive, grant exceptions, or impose other conditions of employment, in accordance with law and the best interests of the Judicial Branch.

### **Rule 3: Amendment of the Navajo Nation Judicial Branch Personnel Rules**

The Chief Justice may direct periodic review of these personnel rules, receive comments and proposals from supervisors and staff of the Judicial Branch, and recommend changes to the Judiciary Committee of the Navajo Nation Council, which has the sole authority to amend these rules.

### **Rule 4: Definitions**

The following definitions apply in these rules:

- (1) **Administrator.** The administrator shall be the court administrator of each judicial district, unless the Chief Justice otherwise designates a local presiding judge as the administrator.
- (2) **Annual Leave Pay Out.** The amount of accumulated annual leave for which an employee may be paid at the time of separation from employment.

- (3) **Class**. A grouping of positions or jobs sufficiently similar in duties, authority, and responsibilities in which:
- (a) the same descriptive title can be used; or
  - (b) the same qualifications can be required; or
  - (c) the same aptitude or proficiency tests can be used; or
  - (d) the same pay range can be applied.
- (4) **Class Series**. A grouping in sequence of classes that are similar in function but not in level, starting with a trainee or entry level position and advancing upward in complexity of duties, authority, and responsibilities.
- (5) **Class Specifications**. The official written position description which defines the class of work, lists the duties, training, education, and experience standards required for the class or position.
- (6) **Confidential Information**. Oral or written information which includes any or all of the following:
- (a) Information intended to be kept in confidence because of the special relation of trust in and reliance on the discretion of the court by the public.
  - (b) Protected information, as defined by the Navajo Nation Privacy and Access to Information Act and other statutes.
  - (c) Identifying personal information of a complainant or witness requested or required by law not to be disclosed.
  - (d) Privileged communications.
  - (e) Judge, law clerk, attorney, Solicitor, or other employee work product and communications, including, but not limited to, notes, papers, discussions, verbal comments, and memoranda.
- (7) **Conflict of Interest**. The reasonable foreseeability that any personal or economic interest or relationship of an employee will be affected through the performance of the employee's duties by reason of employment with the Judicial Branch.
- (8) **Compensatory Pay**. Payment for hours actually worked in excess of the standard work week.
- (9) **Compensatory Time**. Time off for hours actually worked in excess of the standard work week.
- (10) **Cost of Living Adjustment (COLA)**. A salary adjustment granted to employees from funds approved by the Navajo Nation Council or other funding sources to offset inflation.
- (11) **Date of Service**. The date an employee begins work after he or she is hired, even if the employee is hired on a temporary basis. If a former employee is rehired after former employment, the date of service commences when the employee begins work after the rehire date, not from the date of service of the previous employment.
- (12) **Delegation of Authority**. The act of an administrator, judge, or executive staff giving written authority to another to temporarily assume the duties of the position upon absence or the transfer of authority to another to perform a specific duty.
- (13) **Disciplinary Action**. Action taken by a supervisor in response to unsatisfactory conduct or performance by an employee.
- (14) **Discrimination**. Favorable or unfavorable treatment or the appearance of such treatment, by words or conduct, based upon race, religion, national origin, gender, sexual orientation, disability, age, profession, socio-economic status, political affiliation, or clan.



- (15) **Executive Staff.** This includes, but are not limited to, the Court Solicitor, Director of Judicial Administration, Fiscal Director, Chief Probation Officer, Peacemaking Coordinator, and such other persons as the Chief Justice may designate. Executive staff are under the direct supervision of the Chief Justice. The executive staff have administrative powers consistent with their official position description or grant of delegated authority. The executive staff shall be the intermediaries among the judicial districts, Judicial Branch programs, and support personnel of the Administrative Office of the Courts.
- (16) **Flextime.** A special schedule for work hours deviating from standard business hours.
- (17) **Grievance.** A written complaint filed by an employee in accordance with Rule 60 of the JBPR.
- (18) **Immediate Supervisor.** The person in the position description with the closest supervisory control over an employee, as determined by the most current chart of administrative organization approved by the Chief Justice.
- (19) **Judges.** Probationary or permanent justices and judges of the Navajo Nation. Judges are persons with judicial authority in the judicial districts, and justices are persons with judicial authority in the Navajo Nation Supreme Court. This definition does not apply to retired judges in any capacity.
- (20) **Layoff.** The involuntary discharge of an employee due to lack of work, lack of funds, or to reorganization.
- (21) **Nepotism.** Preferential treatment of a person on the basis of blood or marriage relationship to the extent of the degrees set forth in Rule 14 of the JBPR.
- (22) **Pay Range.** The official range of pay at which a class of positions or position descriptions in the Judicial Branch is paid.
- (23) **Personnel.** Judicial Branch employees other than judges and justices.
- (24) **Position.** A classified job title within the Judicial Branch.
- (25) **Position Description.** The official written description of the ordinary duties, responsibilities, training, education, and experience standards required for a job title.
- (26) **Privileged Communication.** All communications recorded by any means, including, but not limited to, memoranda, notes, and other documents intended to be confidential communications among staff attorneys, justices, judges, administrators, supreme court law clerks, and executive staff.
- (27) **Probationary Period.** The period of time the employee must demonstrate the capability to perform assigned job duties at a satisfactory level of performance. The Judicial Branch uses this period to evaluate the employee's capabilities, work habits, and overall performance.
- (28) **Program.** An organized set of services within the Judicial Branch established for the purpose of executing its authority under Title Two and Title Seven of the Navajo Nation Code.
- (29) **Progressive Discipline.** A process which provides an employee a reasonable opportunity to correct deficiencies in performance or personal behavior, and to conform conduct or performance to established work place standards. If the act of the employee warrants severe action, including termination, the normal process of progressive discipline may be bypassed as set forth in Rule 57 of the JBPR.

- (30) **Reclassification.** The reassignment of a position from one job class to another job class based upon a change in the position description. Reclassification refers to the job class and position description and not to the individual filling the position.
- (31) **Retaliation.** Any action taken without substantial justification against an employee which negatively affects the status or conditions of employment of that employee. Retaliation occurs when action is taken as a punitive response against conduct authorized or protected by law, the JBPR, or other applicable Navajo Nation or Judicial Branch policies.
- (32) **Sexual Harassment.** Any unsolicited and/or unwelcome sexual advance, overture, or conduct, either verbal or physical, which has the purpose or effect of unreasonably interfering with an individual's work performance or which creates an intimidating, hostile, or offensive working environment. Sexual harassment of non-employees or members of the public during the course of performing job duties is included in this definition. Sexual harassment includes, but is not limited to:
- (a) Sexual flirtations, gestures, advances, or demands for sexual favors;
  - (b) Verbal abuse of a sexual nature, sexually-related comments and joking, inappropriate comments about an employee's appearance, or the display of sexually-suggestive objects, pictures, or materials;
  - (c) Any uninvited physical contact or touching such as patting, pinching, or deliberate brushing against another's body; and,
  - (d) Any demand for sexual favors that is accompanied by a promise or suggestion of favorable job treatment, or by a threat concerning employment status.
- (33) **Supervisor.** The person to whom an employee reports and/or the person from whom an employee receives official assignments or supervision.
- (a) The judges supervise the court administrator and staff attorney.
  - (b) The court administrator or delegate supervises all other employees at the judicial district.
  - (c) The Chief Justice supervises the executive staff.
  - (d) The Chief Justice or delegate supervises the Supreme Court employees.
  - (e) The executive staff members supervise employees within his or her department or supervision.
- (34) **Termination.** The involuntary discharge of an employee from employment which is not as a result of a layoff.
- (35) **Work Product.** Private memoranda, notes, recordings of mental impressions and personal recollections made by justices, judges, staff attorneys, and the Supreme Court law clerk in regard to any aspect of a pending case.

### **III. EMPLOYMENT**

**Purpose.** This section sets out guidelines for the recruitment, testing, and hiring of applicants to positions in the Judicial Branch; establishes safeguards to ensure that position requirements are met; and identifies the hiring authorities for all Judicial Branch positions.

#### **Rule 5: Categories of Employment Status**

- (A) Regular Employee. An individual who has been designated as a regular employee after successfully completing a required probationary period.
- (B) Probationary Employee. An individual who is required to successfully complete a probationary period prior to being designated as a regular employee.
- (C) Temporary Employee. An individual hired for a term of less than one year to fulfill a specified purpose, or to fulfill the duties of a regular employee who is on leave or otherwise on authorized absence from duty.

#### **Rule 6: Types of Positions**

- (A) Regular Full-Time. A position authorized for a forty (40) hour work week.
- (B) Regular Part-Time. A position authorized for less than forty (40) hours per week.
- (C) Temporary. A short-term job, not to exceed one year, which may be full time or part time with a fixed expiration date.
- (D) Trainee. An individual who is hired to be trained in a position for possible future employment.
- (E) Volunteer. A non-employee performing services for the Judicial Branch for no compensation.
- (F) Intern. A non-employee performing services for the Judicial Branch who may or may not receive a stipend paid by the Judicial Branch or other sources pursuant to Rule 16 of the JBPR.

#### **Rule 7: Nondiscrimination**

The policy of the Judicial Branch of the Navajo Nation is to comply with all applicable laws that govern the employment relationship between the Navajo Nation and its employees. Consistent with the provisions of applicable laws and policies, the Navajo Nation will not improperly discriminate against any applicant or employee.

#### **Rule 8: Employment Qualifications**

- (A) Qualifications required for employment with the Judicial Branch shall be those necessary for competent performance of the duties of the position. The necessary qualifications and skills must appear on the position descriptions developed by the affected position's supervisor and the Administrative Office of the Courts, and approved by the Chief Justice or required by law.
- (B) The Administrative Office of the Courts and supervisor may prescribe and authorize tests for job-related skills which may reasonably demonstrate whether the applicant possesses the qualifications required.

#### **Rule 9: Hiring of Employees**

- (A) Responsibility of the Hiring Authority. When hiring to fill a new or vacant position, it shall be the responsibility of the hiring authority to comply with the sections and guidelines governing the hiring of individuals in the JBPR, the Navajo Preference in Employment Act (NPEA), and other applicable Navajo Nation laws.
- (B) Hiring Authorities.
  - (1) Administrative Office of the Courts. The Chief Justice shall hire the executive staff. Each executive staff member shall hire employees within his or her department or supervision.



- (2) Supreme Court. The Supreme Court personnel shall be hired by the justices.
- (3) Judicial Districts.
  - (a) Court Administrators and Staff Attorneys. Court administrators and staff attorneys shall be hired by the judges of the judicial district for which the position is advertised.
  - (b) All Other Judicial District Positions. All other judicial district court personnel shall be hired by the court administrator of the judicial district for which the position is advertised.
- (4) Other Positions. The hiring authority for other positions shall be specified in the position description.
- (5) All hirings are subject to approval by the Chief Justice.

#### **Rule 10: Position Vacancies**

When a position becomes vacant, the supervisor shall notify the Director of Judicial Administration in writing of such vacancy. The Director of Judicial Administration shall then immediately commence recruitment procedures in accordance with Rule 11 of the JBPR.

#### **Rule 11: Recruitment**

The Director of Judicial Administration shall assist the hiring authorities in the recruitment of qualified applicants. The vacancy announcement(s) shall be placed in the media, such as the radio or Navajo Times, unless the nature of the position requires regional or national advertisement.

#### **Rule 12: Applications**

- (A) All applications shall be made on the official Navajo Nation Application for Employment forms. Applications and other required statements or documents shall be submitted to the appropriate hiring authority.
- (B) An applicant's signature in the application certifies that, to the best of his or her knowledge, all information entered is accurate and complete.
- (C) An application shall be filed within the time period specified in the recruitment announcement. Where an applicant has submitted only a resume or an incomplete application for employment prior to the closing date, the applicant may submit additional document(s) to complete the application.
- (D) The Director of Judicial Administration, upon the request of the hiring authority, shall extend the closing date until a sufficient number of qualified applicants have applied.

#### **Rule 13: Selection Process**

- (A) Screening. The hiring authority shall screen the applications and required documents for minimum qualifications, subject to the requirements of the Navajo Preference in Employment Act and other applicable laws. Only applicants who meet the minimum qualifications shall be interviewed.
- (B) Testing. The hiring authority shall administer job-related skills test(s), as required, to determine if an applicant meets the minimum qualifications specified in the position description.

- (C) Interviewing. The hiring authority shall interview all applicants who meet minimum qualifications after required screening and testing.
- (D) Physical or Mental Limitations. A prospective employee shall not be hired if it appears that physical or mental limitation of the individual would cause an unreasonable danger to the health or safety of the individual, employees, or public.
- (E) Ranking. A written summary ranking all applicants interviewed will be submitted to the Administrative Office of the Courts. The criteria of the summary shall be based on the duties and responsibilities cited in the respective position description and other factors, for example, education, relevant experience, references, interviews, skill tests, criminal history record, etc. It will rank the applicants based on qualifications, other relevant information, or other factors used to justify the hiring of the person selected.
- (F) Selection. The hiring authority shall select the most qualified applicant, giving consideration to any employment preferences established by Navajo Nation law and the Judicial Branch. When a selection is made, the hiring authority shall immediately forward to the Director of Judicial Administration the ranking summary, original application, resume, required documents, letters of reference, certificates, and other supporting documents of the person selected.
- (G) Notice of Selection. The hiring authority shall notify the selected applicant after the selection is reviewed by the Director of Judicial Administration for compliance with these Rules and approved by the Chief Justice. If the selected applicant declines the position, the next best qualified applicant may be considered for the position. All applicants not chosen shall be notified in writing that a selection has been made. If the position is not filled, it may remain open or be readvertised.
- (H) Retention of Employment Applications. Documentation accumulated on all applicants shall be retained by the hiring authority for two (2) years.

#### **Rule 14: Family Members**

- (A) Nepotism Forbidden. No person shall be hired or assigned to a position in the judicial district, office, or program where a family member is the supervisor and/or judge.
- (B) Family Member Defined. For purposes of section (A) of this Rule, a family member is spouse, parent, child (including adopted, stepchild, or foster child), brother, half-brother, sister, half-sister, grandchild, grandparent, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or cousin of the first degree.
- (C) Relationship Disclosure. All applicants for positions in the Judicial Branch shall indicate on the official application form whether or not a family member is employed by the Judicial Branch and with which judicial district, office, or program. This information will be used to determine the applicant's eligibility for the position. If an employee knowingly fails to disclose a family relationship on the application, that person shall be terminated.
- (D) Relationship After Employment. If an employee becomes a family member to the supervisor or judge after employment, or if a reorganization creates such a relationship, a minimum of thirty (30) days will be provided to resolve the conflict. If, after ninety (90) days, no other resolution is possible, the employee with the most recent date of continuous employment will be terminated.



#### **Rule 15: Employee Probation**

- (A) **Probationary Period.** All employees shall serve a probationary period of ninety (90) calendar days. Prior to the end of the 90-day period, the judicial district, office, or program shall notify the probationary employee, in writing, whether he or she will be kept as a regular employee, terminated, or have the probationary period extended. The probationary employee shall request such notice from the supervisor immediately upon the end of the 90-day period. Untimely communication of this notice does not result in automatic advancement of the employee to regular status.
- (B) **Transfer of Leave Benefits of a Promoted or Transferred Employee.** A regular employee who is on probationary status, due to a new assignment, may continue to use leave benefits previously accrued.
- (C) **Evaluations.** The supervisor shall evaluate each probationary employee at the end of thirty (30) calendar days, at the end of sixty (60) calendar days, and at the end of eighty (80) calendar days. Each written evaluation shall be discussed with the employee by the supervisor. A copy of the evaluation shall be given to the probationary employee.
- (D) **Extension of 90-Day Probationary Period.** For good cause, a probationary period may be extended for a period not to exceed an additional ninety (90) calendar days. The supervisor has the discretion of determining the length of the extension. For purposes of this section, a probationary period may be extended due to the following:
  - (1) Extended absence of an employee due to medical reasons.
  - (2) The supervisor determines that there is insufficient time to thoroughly evaluate the employee's performance.
  - (3) If the supervisor determines that additional time is needed to work with the employee who falls slightly below necessary minimum qualifications so he or she can meet position standards.
- (E) **Criminal History.** A criminal history records check shall be conducted for every person selected for employment within the Judicial Branch. A probationary employee cannot advance to regular status until a criminal history records check has been completed. If the criminal history record is not provided with the application, it shall be submitted to the Director of Judicial Administration within the probationary period.
- (F) **Physical Qualifications.** Prospective employees shall possess the necessary physical and mental qualifications required for the position. After selection, but within the probationary period, the hiring authority may require a physical examination or certification of good health from a licensed physician to ascertain an individual's ability to perform the minimum duties within the position description.
- (G) **Final Notice.** A copy of the notification and all evaluations of the probationary employee shall be sent to the Director of Judicial Administration. Approval of regular status, extension of probation, or termination shall become final upon written notice to the employee.
- (H) **Dismissal.** If, during the probationary period, the employee's job performance or conduct is unsatisfactory, the supervisor may terminate the employee. The

probationary employee shall be given written notification, citing the reason(s) for the termination.

- (f) Request for Review. A terminated probationary employee, within five (5) working days of receipt of the notice of termination, may request in writing a review of the termination by the Chief Justice. The decision of the Chief Justice to uphold or reverse the termination shall be final. The Chief Justice may designate another qualified person to conduct the review.

#### **Rule 16: Volunteers**

Purpose. This section sets out the minimum guidelines that must be met before the Judicial Branch can accept the offers of time and services of volunteers. The Judicial Branch welcomes and appreciates volunteer efforts, but needs regulations to protect itself and the integrity of its systems. Court-ordered placements are not considered volunteers. Interns who are compensated by the Judicial Branch are not considered volunteers.

- (A) Volunteers may be paid for their services from non-Judicial Branch sources unless it creates a conflict of interest.
- (B) Volunteers must be approved or disapproved for service by the administrator of the district where the volunteer will work. Immediately upon approval, the administrator shall submit to the Administrative Office of the Courts:
- (1) A completed Navajo Nation Application for Employment form;
  - (2) A short statement as to the type of services the volunteer will provide and to the extent possible, the skills the volunteer may have to provide those services;
  - (3) An estimate of the length of time over which the volunteer will provide services; and
  - (4) Other forms as required.
- (C) Volunteers shall have a designated supervisor who shall be an employee of the Judicial Branch. The designated supervisor shall be responsible for the volunteer's activities and shall make such reports as may be necessary. The designated supervisor shall have the responsibility of instructing the volunteer on the required protection of court records, the rules relating to privacy and confidentiality of court records and communications, ex parte communications, and the unauthorized practice of law, prior to voluntary employment.
- (D) Volunteers shall be required, in writing, to agree to abide by the JBPR.

### **IV. CONDITIONS OF EMPLOYMENT**

#### **Rule 17: Personnel Records**

- (A) Official Personnel Records. The Judicial Branch shall keep on file employee records, which include, but are not limited to, employee information on selection, employment, orientation, training, salary, evaluation, attendance, discipline, and termination. The official personnel records will be maintained at the Administrative Office of the Courts.
- (B) Confidentiality—General Principle. All records and information gathered and kept on employees shall be confidential. No information on an employee shall be released to any person or entity without showing a privilege or legitimate need for

such information, or the information is required to be released by the Navajo Nation Privacy and Access to Information Act. Information may be released with the written and signed consent of the affected employee.

- (C) Access to Records by Outside Entities. Any request for access to employee records by a person or entity from outside the Judicial Branch must be approved by the Director of Judicial Administration or the Chief Justice prior to access. Where parties from outside the Judicial Branch seek access to employee records, the employee shall be given notice of the request to protect the employee's rights to confidentiality. Any emergency situation requiring access to employee information shall be referred to the Director of Judicial Administration. If access is allowed, the employee shall be notified as soon as possible.
- (D) Access to Records by Judicial Branch Personnel. The administrator or an individual authorized to access employee records by position description may examine the records for a purpose that serves the legitimate needs of the Judicial Branch. No Judicial Branch employee that examines the contents of an employee's records may share this information with an outside entity or individual.
- (E) Employee Access Rights. Each employee has the right to inspect and copy any information maintained in his or her personnel records and the right to contest the relevance or accuracy of any information maintained in the records to his or her supervisor. Employees are encouraged to keep their personnel files current by submitting to the Administrative Office of the Courts updated information on their experience, education, and training.
- (F) Documentation of Access. No person shall have access to employee records, without first recording: (1) the person's name, (2) the date of access, (3) the authority upon which access is permitted, and (4) the reason for access.

#### **Rule 18: Employee Work Assignments**

An employee's duties shall conform to the position description. In addition to duties in the position description, temporary work duties may be assigned for a specific purpose and specific time period.

#### **Rule 19: Hours**

- (A) Work Week. The standard work week is forty (40) hours.
- (B) Business Hours. The courts and offices shall be open to the public Monday through Friday from 8:00 a.m. to 5:00 p.m., except for Judicial Branch holidays. Courts or offices may extend business hours to serve the public.
- (C) Breaks. Each employee must take one (1) hour for lunch, and must take one fifteen (15) minute break in the morning and one fifteen (15) minute break in the afternoon. Lunch and breaks shall be scheduled by the supervisor so that the schedule does not interfere with or hamper the operation(s) of the court or office. Employees shall not accumulate break time or lunch time.
- (D) Flextime. Flextime shall be used only for special or unique circumstances. It allows flexibility to serve employees with special physical or familial needs, or allows an adjustment of service hours to benefit the public. Flextime plans, consistent with sections (A), (B), and (C) of this Rule, shall be approved by the administrator prior to implementation. The plan shall indicate: (1) the employee's name and position; (2) the justification for the plan in terms of benefit to the



employee or the public; (3) the proposed work days and that hours will meet the forty (40) hour work week requirement; (4) the feasibility of the plan for supervision and convenience of the court or office; (5) any particular supervisory situations to be addressed; and (6) the length of time for which flextime is approved.

#### **Rule 20: Overtime**

**Purpose.** It is the policy of the Judicial Branch of the Navajo Nation to authorize overtime when necessary to meet essential operating needs of the Navajo Nation Judicial Branch, subject to existing funding and contract requirements.

- (A) **Overtime.** Eligible employees shall be compensated for hours actually worked which exceed forty (40) hours per week. For purposes of computing overtime, the 40-hour limit is based upon hours actually worked during the week. Paid leave is not counted.
- (B) **Prior Authorization.** No overtime work is permitted without prior written authorization. Only the individuals in the following position descriptions can authorize overtime: Chief Justice, Director of Judicial Administration, Peacemaking Coordinator, and court administrators. An employee shall receive approval only from his or her supervisor.
- (C) **Compensation Rate.** Compensation for overtime shall be at the rate of one and one-half times the regular hourly rate for hours actually worked in excess of forty (40) hours per week. Written overtime approval shall be submitted to the Administrative Office of the Courts for processing upon completion of the work.
- (D) **Compensation Option.** There shall be agreement to the type of compensation to be earned by the employee, either pay at time and one-half, compensatory time off, or a combination of the two, as long as the premium pay principle of time and one-half is maintained for hours actually worked in excess of forty (40) hours. An employee may not be threatened with retaliation for a refusal to work overtime under a compensation plan favored by the supervisor. The supervisor's sole remedy is to assign the overtime to another employee, who will agree to compensation acceptable to the supervisor that does not violate the premium pay principle.
- (E) **Use of Accumulated Compensatory Time.**
  - (1) Prior to compensatory leave, the employee shall submit a request to use compensatory time to the supervisor for approval. Approval shall be based upon the needs of the court or office.
  - (2) Compensatory time off must be taken within thirty (30) days. In no case may an employee accrue more than forty (40) hours of compensatory time.
  - (3) If an employee is transferred or leaves employment for any reason, the employee will be paid for compensatory time earned, as documented on the official form.

#### **Rule 21: Overtime Exceptions**

The following position descriptions, including such other positions as the Chief Justice may designate, shall not receive overtime pay or earn compensatory time: Court Solicitor, Director of Judicial Administration, Deputy Director of Judicial Administration,

Fiscal Director, Chief Probation Officer, Peacemaking Coordinator, Supreme Court Law Clerk, staff attorney, and court administrator.

### **Rule 22: Performance Evaluation**

A formal performance evaluation of each regular employee shall be done at least once a year. An employee's performance improvement plan is measured by the position description and any work-related written instructions given by a supervisor.

**(A) Evaluation Requirements.**

- (1)** The performance evaluation is conducted to acknowledge good work, evaluate need for additional training, review past performance to improve skills, objectively inquire into an employee's strengths and weaknesses, set goals for the next year, assure the public that the Judicial Branch is open to analysis in order to more effectively carry out its public duties, ensure that all employees are performing the necessary tasks of their position descriptions, and serve as a basis to determine future merit or bonus pay.
- (2)** The evaluation must measure an employee's performance in relation to the employee's position description, as well as any additional written instructions given to the employee by a supervisor.
- (3)** Any hearsay statements or reports included in the evaluation require documentation of the investigation made by the supervisor to determine the reliability of the hearsay statement.
- (4)** If the evaluation includes conduct of the employee not previously discussed with the employee, the supervisor must state the reason for the lack of prior discussion and justify its inclusion in the evaluation.

**(B) Evaluation Forms.** Evaluations shall be conducted subject to established procedures on forms prescribed by the Administrative Office of the Courts.

**(C) Who Evaluates.** The evaluation of each employee shall be made by the supervisor.

**(D) Evaluation Signatures.** The employee and supervisor shall sign the evaluation form. The signature of the employee shall indicate only that he or she has been informed of the evaluation results. It does not signify agreement with the results. Any modifications made, after the employee's signature is affixed, must be read and initialed by the employee to indicate awareness of the modifications. If the employee refuses to sign, the supervisor shall indicate on the evaluation form that the employee refused to sign. The originals of the completed evaluation forms and supporting documents shall be forwarded to the Director of Judicial Administration for placement in the employee's official personnel file.

**(E) Unsatisfactory Employee Performance or Conduct.** As a general principle, supervisors shall identify and document commendable employee performance and conduct. The supervisor shall also identify and document any shortcoming(s) or deficiency(ies) in performance or conduct documented within the past year. An unsatisfactory rating requires counseling by the supervisor. The counseling shall involve a written explanation of the unsatisfactory shortcoming(s) or deficiency(ies), actions needed to correct the identified problem, and timelines (where applicable) for improvement. Counseling shall address any training or skills improvement(s) required to deal with the identified problem.



### **Rule 23: Annual Leave**

Employees should keep in mind that the use of leave is granted as a privilege, rather than a right. Leave may be denied based on the workload and/or workflow of the judicial district, office, or program.

**(A) Eligibility.**

- (1) Regular full-time and eligible regular part-time employees shall earn and accrue annual leave.
- (2) Regular part-time employees who work less than twenty (20) hours per week are not eligible to accrue annual leave.
- (3) Temporary employees are not eligible to accrue annual leave.
- (4) Probationary employees shall earn annual leave but cannot use accrued annual leave.
- (5) Employees who have been transferred or promoted may use accrued annual leave in accordance with Rule 15(B) of the JBPR.

**(B) Annual Leave Accumulation.** Each consecutive year of service in the Judicial Branch shall be counted in determining years of service for the accrual of annual leave.

- (1) A year of service shall be deemed completed on the anniversary date of employment (i.e., one year from the date of initial employment).
- (2) Employees shall accumulate annual leave during periods of leave with pay. Leave accumulated during such periods shall be forfeited if employees fail to return to work.
- (3) Employees on leave without pay shall not accumulate leave.
- (4) Forfeiture of accrued annual leave as a disciplinary action shall not be authorized.
- (5) At the end of each calendar year, all accrued annual leave hours in excess of three hundred and twenty (320) hours shall be forfeited. Forfeited hours shall not be paid.

**(C) Accrual Rate.**

- (1) Regular full-time employees will accrue annual leave at the following rates per pay period:

<u>Years of Service</u>	<u>Non-exempt</u>	<u>Exempt</u>
Less than 3 years	4 hours	6 hours
3(+) years to 8 years	6 hours	8 hours
More than 8 years	8 hours	10 hours

- (2) In the case of regular part-time employees, annual leave shall be accrued in proportion to hours worked, based upon the above schedule.
- (3) A Judicial Branch employee who accepts another position within the Judicial Branch shall retain his or her years of service for the purpose of calculating annual leave accrual.

**(D) Use of Annual Leave.** An employee may use accumulated annual leave only when properly authorized by the administrator and acknowledged by the presiding judge. Use of annual leave will be approved and granted after its accrual and not in advance of accrual.

**(E) New Employee Probationary Period.** New employees can earn and accrue annual leave but shall not use accrued annual leave until after they have

successfully completed his or her probationary period and have been placed on regular status through the processing of official personnel action forms.

- (F) Extension of Sick Leave. Upon exhaustion of accrued sick leave, annual leave may be approved.
- (G) Mandatory Leave/Carryover. A minimum of eighty (80) hours of accrued annual leave must be used each year, and no more than three hundred and twenty (320) hours will be carried forward from one calendar year to the next. It is the supervisor's responsibility to ensure that these provisions are met. Employees are responsible to communicate with their supervisor to make certain that annual leave, in excess of three hundred and twenty (320) hours, is used before the end of a calendar year, when the excess hours would otherwise be lost. Employees will only be granted leave for these excess hours at the end of a year if the leave does not negatively affect the workflow of the judicial district, office, or program in which the employee works.
- (H) Change of Employment Status. A regular full-time or regular part-time employee whose employment status has changed to another position in which he or she will not be eligible to accrue annual leave will be paid for his or her accrued annual leave to date of reassignment.
- (I) Change of Funding Source. An employee whose employment status has changed to another position funded by a different funding source within the Judicial Branch will not be eligible to transfer his or her accrued annual leave and shall be paid for the accrued annual leave, unless the program receiving the employee agrees to accept the liability for the accrued annual leave. Accepting program officials must ensure that acceptance of liability for accrued annual leave is in accordance with cost principles that apply to the respective grant or contract. The administrator shall not accept liability for accrued annual leave from an entity outside the Judicial Branch.
- (J) Liquidation of Annual Leave. Upon termination of employment with the Judicial Branch, accrued annual leave will be paid in full at the employee's current rate of compensation and included in the final paycheck.

#### **Rule 24: Sick Leave**

- (A) Eligibility.
  - (1) Regular full-time and eligible regular part-time employees shall earn and accrue sick leave.
  - (2) Regular part-time employees who work less than twenty (20) hours per week are not eligible to accrue sick leave.
  - (3) Temporary employees are not eligible to accrue sick leave.
  - (4) Probationary employees shall earn sick leave but cannot use accrued sick leave.
  - (5) Employees who have been transferred or promoted may use accrued sick leave in accordance with Rule 15(B) of the JBPR.
- (B) Sick Leave Accumulation. Each consecutive year of service in the Judicial Branch shall be counted in determining years of service for the accrual of sick leave.
  - (1) A year of service shall be deemed completed on the anniversary date of employment (i.e., one year from the date of initial employment).

- (2) Employees shall accumulate sick leave during periods of leave with pay. Leave accumulated during such periods shall be forfeited if employees fail to return to work.
- (3) Employees on leave without pay shall not accumulate sick leave.
- (C) Accrual Rate.
- (1) Regular full-time employees will accrue sick leave at the following rates per pay period:
- | <u>Years of Service</u> | <u>Non-exempt</u> | <u>Exempt</u> |
|-------------------------|-------------------|---------------|
| Less than 3 years       | 4 hours           | 6 hours       |
| 3(+) years to 8 years   | 6 hours           | 8 hours       |
| More than 8 years       | 8 hours           | 10 hours      |
- (2) In the case of regular part-time employees, sick leave shall be accrued in proportion to hours worked, based upon the above schedule.
- (3) A Judicial Branch employee who accepts another position within the Judicial Branch shall retain his or her years of service for the purpose of calculating sick leave accrual.
- (D) Use of Sick Leave. Sick leave shall be used for bona fide illnesses, injuries, or medical or psychiatric examinations or treatment of an employee, including traditional ceremonies.
- (1) Sick leave shall not be used in place of annual leave.
- (2) Loss of work time due to illness or other medically-required absence for the immediate family, which requires the personal care and attention of the employee, may be charged to the employee's accumulated sick leave, with the approval of the supervisor.
- (a) The term immediate family for purposes of this section shall mean spouse, child, stepchild, foster child, parent, grandchild, or grandparent.
- (b) An absence of an employee is justified for the personal care and attention of an immediate family member if, due to the age or the infirmity of the member of the immediate family, the family member is unable to meet his or her medical needs without the assistance of the employee. Leave shall not be granted to an employee merely as a convenience.
- (c) If sick leave to care for a family member is requested for more than two (2) weeks, the employee shall provide a doctor's statement or a medical certification concerning the need for care. In addition, the employee must document why other family members cannot assume all or part of the duties of care.
- (3) Maternity Leave.
- (a) Sick leave shall be granted to an employee who, by reason of pregnancy, childbirth, or related medical condition, is unable to perform assigned duties. Sick leave shall be granted on the same basis as other leaves of absences, except that every effort will be made to protect the health and safety of the pregnant employee and the unborn child.
- (b) As soon as the attending physician confirms the pregnancy, the employee is required to report the pregnancy to the supervisor or



Director of Judicial Administration. All requests for maternity leave shall be supported by a doctor's statement.

- (c) Maternity leave shall be charged first to accrued sick leave, then accrued annual leave, and then leave without pay.

- (4) Investigation. The administrator may investigate an alleged illness or injury any time abuse of sick leave is suspected and take appropriate action.

(E) Physician Statement.

- (1) An employee on sick leave in excess of two (2) days, either paid or unpaid, shall be required by the administrator to provide a statement from a physician or a traditional healer. Failure to provide the required statement shall result in a change of leave status and/or disciplinary action.
- (2) An employee who uses his or her sick leave for more than ten (10) consecutive work days shall provide a statement from his or her attending physician indicating that he or she is fit to return to work.
- (3) Anytime there is a question that an employee's physical or mental health is at risk or is preventing the employee from performing his or her duties, the supervisor may direct the employee to provide a physician's statement on the employee's ability to continue employment in the position hired. The employee shall submit a written waiver of doctor-patient confidentiality for the supervisor to learn how the employee's condition could affect the employee's work. The waiver is limited to information concerning the effects of the employee's condition on the ability to perform the necessary tasks of the employee's position description. All medical information will be maintained in strictest confidence and shared only with supervisory authorities who have a need to know. The supervisor may give reasonable accommodation to employees who are addicted to alcohol or drugs unless the employee's inability to operate a motor vehicle or work safely makes the employee unable to perform the minimum qualifications of the position, or the employee fails to comply with drug or alcohol treatment requirements.

(F) Extended Sick Leave Without Pay.

- (1) Accrued sick and annual leave benefits must be used prior to commencement of the extended sick leave without pay.
- (2) Extended sick leave, not to exceed one (1) continuous year when combined with paid, unpaid, or annual leave, will be granted to regular full-time and regular part-time employees.
- (3) No sick leave hours shall be accrued during periods of leave without pay.
- (4) No annual or sick leave hours will be earned or accrued after accrued leave is exhausted.
- (5) The employee will not be eligible for holiday pay.
- (6) An employee's failure to return from extended sick leave, when released by the attending physician or upon expiration of the extended sick leave, whichever occurs first, will be considered a voluntary departure from employment.

(G) New Employee Probationary Period. New employees can earn and accrue sick leave but shall not use accrued sick leave until after they have successfully

completed his or her probationary period and have been placed on regular status through the processing of official personnel action forms.

- (H) Carryover. Eligible employees may carry over an unlimited number of unused sick leave hours from calendar year to calendar year.
- (I) Sick Leave Payout. No payout of unused sick leave will be made upon resignation, layoff, or termination of employment with the Judicial Branch.

#### **Rule 25: Other Leave**

##### **(A) Military Leave.**

###### **(1) Military Training.**

- (a) A regular status employee who is ordered to participate in field training or other activities in any branch of the Armed Forces of the United States or the National Guard shall be granted a leave of absence with pay not to exceed a period of fifteen (15) working days in any calendar year.
- (b) The employee shall be entitled to receive pay only for his or her regularly scheduled work days.
- (c) Leave of absence for military training in excess of the fifteen (15) working days in any calendar year shall be charged against the employee's accrued annual leave or placed on leave without pay, whichever is applicable.
- (d) Employees requesting a leave of absence for military training must submit a copy of their military orders for field training or other activities.
- (e) Upon return from leave of absence for military training, the employee is entitled to return to the position occupied prior to the beginning of the leave.
- (f) While on leave of absence for military training, the employee continues to accrue sick and annual leave at his or her regular rate, including days of leave without pay

###### **(2) Military Honors Detail.**

- (a) A regular status employee who is an honorably discharged veteran employed with the Judicial Branch will be granted administrative leave to perform Military Funeral Honors Detail during the work week.
- (b) Employee participation in the Honors Detail must acquire written authorization from the Department of Navajo Veterans Affairs Central Administration and/or Agency Offices to verify his or her participation in the Military Funeral Honors Detail.
- (c) The employee shall only be compensated by the program or department for which he or she is employed. He or she shall not accept or not be authorized any other compensation.
- (d) The employee may accept reimbursement for expenses incurred.

###### **(3) Employees Ordered Into Active Service.**

- (a) A regular status employee who is ordered into active service in the Armed Forces of the United States or the National Guard shall be granted military leave without pay.



- (b) A regular status employee's application for military leave must be supported by a military order issued by the Armed Forces or the National Guard.
- (c) An employee granted military leave shall be entitled to return to the same or equivalent position. The employee must return to employment within ninety (90) days after the end of active service; otherwise, he or she will be considered abandoned the position.
- (d) For purposes of Section (3)(c), annual leave and sick leave will not accrue during periods of military leave without pay.
- (e) An employee ordered into active service will be allowed annual leave payout only if he or she resigns.
- (4) Employees Enlisting in Military Service. A regular status employee who voluntarily enlists into active duty in the Armed Forces of the United States or the National Guard shall resign from Judicial Branch employment.
  - (a) However, upon discharge, the employee will be placed into his or her former position provided it is available, subject to the following conditions:
    - (1) the employee applies for reemployment within ninety (90) days after separation from the Armed Forces of the United States or the National Guard;
    - (2) the employee is honorably discharged; and
    - (3) the employee meets the minimum requirements of the position.
  - (b) The returning employee must provide enlistment and discharge documentation issued by a commanding officer of the Armed Forces or the National Guard.
- (B) Bereavement Leave. An employee may be granted up to six (6) consecutive days of paid leave for purposes of bereavement as approved by the supervisor. The Judicial Branch understands that additional time may be needed by the employee. Employees may take additional annual leave as necessary with the approval of the supervisor. Bereavement leave may be used for the following: spouse, child, stepchild, foster child, parent, grandchild, grandparent, brother, sister, half-brother, or half-sister. Requests for unusual cases will be subject to approval by the supervisor.
- (C) Administrative Leave. Administrative leave must be approved by the Chief Justice.
  - (1) Paid emergency leave will be granted for a situation declared by the Chief Justice that an emergency, disaster, or grief exists, or declared by an administrator at the judicial district as described by Rule 44(B)(2).
    - (a) Employees who are otherwise absent during a period covered by the emergency declaration are not eligible for paid administrative leave.
    - (b) Employees on annual or sick leave during the period covered by the emergency declaration shall remain on the same status and will not have leave changed to administrative leave.
    - (c) Employees who are on training or travel and are not affected by the emergency situation during the period covered by the emergency declaration will not be granted administrative leave.

- (2) Non-emergency grants of paid administrative leave declared by the Chief Justice will be applicable to all individuals, including those on approved leave, training, or travel.
  - (a) Only the Chief Justice may declare administrative paid leave for non-emergency situations.
- (D) Investigatory Leave.
  - (1) An employee may be placed upon investigatory leave at the discretion of the supervisor with the approval of the Chief Justice. Investigatory leave is when an employee is suspended from work during an investigation of alleged wrongdoing.
  - (2) Investigatory leave for a non-criminal offense shall not exceed twenty (20) days.
  - (3) An employee charged with a criminal offense may be placed upon investigatory leave not to exceed one hundred and twenty (120) days.
  - (4) Investigatory leave may be paid or unpaid.
- (E) Voting Leave.
  - (1) Employees who are registered voters may request up to four (4) hours paid voting leave with the approval of the supervisor for the purpose of voting.
  - (2) Employees traveling fifteen (15) miles or less to their polling site will be authorized one (1) hour voting leave.
  - (3) Employees traveling sixteen (16) to forty-nine (49) miles to their polling site will be authorized two (2) hours voting leave.
  - (4) Employees traveling beyond fifty (50) miles to their polling site will be authorized four (4) hours voting leave.
  - (5) Employees required to vote at a poll remote from their workstations may request an extension of the four-hour limit. Any extension of time granted in excess of four (4) hours will be charged to annual leave.
- (F) Jury or Witness Duty. An employee who is summoned to jury duty or subpoenaed to court as a witness shall be granted leave with pay. An employee may accept reimbursements for meals, mileage, lodging, etc. Any non-expense fees or compensation received shall be turned over to the Judicial Branch.

#### **Rule 26: Holidays**

- (A) Holidays for Judicial Branch employees shall be the following:
  - (1) January 1 (New Year's Day)
  - (2) The third Monday in January (Martin Luther King Day)
  - (3) The third Monday in February (President's Day)
  - (4) The fourth Monday in April (Navajo Nation Sovereignty Day)
  - (5) The last Monday in May (Memorial Day)
  - (6) June 1 (Navajo Nation Memorial Day)
  - (7) July 4 (Independence Day)
  - (8) The first Monday in September (Labor Day)
  - (9) November 11 (Veteran's Day)
  - (10) The fourth Thursday in November (Thanksgiving Day)
  - (11) The fourth Friday in November (Family Day)
  - (12) December 25 (Christmas Day)
- (B) The Chief Justice may declare four (4) additional holidays per calendar year.

- (C) Holidays which occur on work days during the pay period shall be counted as work days. If a holiday falls on a Saturday, the preceding Friday shall be taken as the holiday. If a holiday falls on a Sunday, the following Monday shall be taken as the holiday. In addition to the above named holidays, other holidays declared by the Navajo Nation government and federal government may be observed.
- (D) If work on a holiday is authorized, another day off shall be substituted as the holiday for the employee required to work on a holiday. This substitution time will be considered compensatory time as described in Rule 20 of the JBPR. Holiday work is not permitted without prior approval by a supervisor.

#### **Rule 27: Leave Responsibility and Scheduling**

- (A) Scheduling. Scheduling of all leave shall be in consultation with and approval of the supervisor prior to use of the leave.
- (B) Two unauthorized absences may result in immediate suspension.
- (C) Leave Request Forms. All leaves must be requested by the employee in writing on the official Employee's Leave Report form. The form must be signed by the supervisor prior to use of the leave.
- (D) Records.
  - (1) Accurate documentation and maintenance of leave records for all employees shall be the responsibility of the supervisor on forms prescribed by the Administrative Office of the Courts.
  - (2) Copies of all employee leave records shall be forwarded to the Administrative Office of the Courts.
- (E) Abandonment of Employment. An employee shall be deemed to have abandoned employment if he or she is absent from work without supervisor approval for three (3) consecutive working days, unless physically or mentally unable to do so.

#### **Rule 28: Salary and Benefits Policy**

The Judicial Branch provides a uniform compensation plan to pay wages and salaries that are commensurate with the type of work, level of responsibility and qualifications required in a position description, subject to budgetary constraints and to rates being paid for similar work within the Navajo Nation. It is the policy of the Judicial Branch of the Navajo Nation to provide salary adjustments for employees that are equitable and competitive.

#### **Rule 29: Compensation Plan**

- (A) Plan Established. A compensation plan shall be established in which each job class shall be assigned to a salary range based upon relative responsibilities of work, comparability to prevailing rates, and other pertinent salary and economic data.
- (B) Adjustments. Adjustments in the compensation plan shall be made as a result of salary surveys and relationship studies made periodically by the Administrative Office of the Courts.
  - (1) Such adjustments may be necessitated by the creation of new positions or classes, authorized reorganization, or changes in duties and responsibilities.



- (2) Proposed changes in pay range assignments shall not require expenditures greater than those for which appropriations or approved fund transfers have been made.

**Rule 30: Salary and Wage Administration**

- (A) Each position description shall be reviewed by the Administrative Office of the Courts, classified, and assigned to a grade within the pay structure.
- (B) The Administrative Office of the Courts will establish an appropriate pay structure with approval by the Judiciary Committee of the Navajo Nation Council.

**Rule 31: Temporary Reclassification**

When an employee is temporarily reclassified to a higher class for more than thirty (30) consecutive days, he or she shall be paid no less than the rate assigned to the first step of the class to which he or she has been temporarily reassigned. In no event shall a temporarily reclassified employee be paid less than the salary in his or her permanent position. If temporary reclassification is allowable, pursuant to applicable rules and regulations affecting the permanent position of the employee, other funds may be used to adjust the pay of the employee to the first step of the class to which he or she has been temporarily assigned.

**Rule 32: Salary Adjustments Based on Studies**

- (A) When the pay range assigned a class is changed because of salary studies, the pay of all employees in the class shall be changed. The anniversary date shall not change.
- (B) If funds are not made available, the pay range will change but the salary will remain the same.

**Rule 33: Merit or Bonus Pay**

- (A) Available Funds. No merit or bonus pay shall be approved unless funds are appropriated and available.
- (B) If funds are available, merit or bonus pay may be given according to policies and procedures established by the Administrative Office of the Courts.

**Rule 34: Pay Advances**

- (A) An employee may request a pay advance in the following situations:
- (1) When an employee is required to travel on official business. Travel must be in accordance with existing travel policies.
  - (2) Serious illness or death in the immediate family: spouse, child, stepchild, foster child, parent, grandchild, or grandparent.
- (B) All pay advances will be deducted in accordance with the current payroll processing.

**Rule 35: Salary Computation**

- (A) Application of Salary Schedule. All employees in the Judicial Branch shall be compensated at one of the rates, or at a proportion of one of the rates, established in the salary schedule.
- (B) Compensation for Work Days.

- (1) Regular full-time and probationary employees who work or are on paid leave on all scheduled work days of a pay period shall be compensated at the appropriate rate for their classification.
- (2) Regular full-time and probationary employees who work or are on paid leave less than a full pay period shall be compensated at a computed hourly rate for each hour worked. Payment for holidays shall be determined as prescribed by Rule 26 of the JBPR.
- (3) Regular part-time employees who work on a regular part-time schedule shall be compensated at an appropriate hourly rate. Payment for holidays shall be determined as prescribed by Rule 26 of the JBPR.
- (4) Regular part-time employees who work on an irregular or intermittent schedule shall be compensated at the appropriate hourly rate for time actually worked. Such employees shall not be compensated for a holiday, unless they actually work on the holiday with prior approval of the supervisor.
- (5) Temporary employees shall be compensated in the same manner as regular employees. Such employees shall not be compensated for a holiday, unless they officially work on the holiday with prior authorization.

#### **Rule 36: Employee Benefits**

The Judicial Branch employees participate in benefit programs available to Navajo Nation employees. Any employee who wishes more information on these programs should contact their supervisor.

**(A) Group Insurance.**

- (1) Group health insurance is available to all eligible Navajo Nation employees. The coverage may include dental and vision, as well as medical. Qualified dependents are also eligible for coverage.
- (2) Health Care Continuation. After severance of employment, health care coverage may be continued under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

**(B) Workers Compensation.** Employees are entitled to benefits for work-related injury or disease. Workers compensation benefits shall be governed by applicable provisions within the Navajo Nation Code.

**(C) Retirement Plan.**

- (1) The Navajo Nation Employee Retirement Plan. This plan is administered by the Navajo Nation.
- (2) The Nihibeeso Savings Plan (401K). This is an optional retirement savings plan available through payroll deduction.

**(D) Employee Assistance Program (EAP).** Judicial Branch personnel are eligible to participate in the Navajo Nation EAP.

**(E) Professional Fees.**

- (1) Attorney Bar Membership Fees. The Judicial Branch may pay Navajo Nation Bar Association membership fees and one (1) state bar fee from New Mexico, Colorado, Arizona, or Utah for attorneys whose position description requires memberships in those organizations. No other fees or legal organization memberships will be paid.
- (2) Fees and Dues for Other Employees. The supervisor may authorize payment of dues and fees for professional organizations for non-attorney



employees upon written justification of the merits of such membership for the given employee and position description.

**Rule 37: Classification Plan**

- (A) Policy. It is the policy of the Judicial Branch of the Navajo Nation to establish and maintain a classification plan which groups jobs based upon similar duties, responsibilities, and qualification requirements.
- (B) Position Classification Plan.
  - (1) Purpose. To establish and classify positions by assigning official class titles, providing descriptions of duties and responsibilities, determining qualification requirements and setting pay rates based on duties and responsibilities.
  - (2) Modifications. The Administrative Office of the Courts will modify the position classification plan through establishing new classes, revising or abolishing existing classifications, setting new entry level rates, and other related criteria, as necessary.
  - (3) Coverage and Exclusions. All positions, regardless of the source of funding, are covered by the classification plan.
- (C) Classification of New Positions.
  - (1) The Administrative Office of the Courts shall be responsible for evaluating and classifying each position to the appropriate class. Consideration will be given to the general duties, tasks, responsibilities, and qualification requirements.
  - (2) The approved class title, as designated by the Administrative Office of the Courts, shall be utilized for all official records.
  - (3) The Administrative Office of the Courts shall be responsible for maintaining the official class specifications and will provide each judicial district, office, or program a set of the relevant class specifications.
- (D) Reclassification of Existing Positions. A position can be reclassified whenever a material and permanent change in the duties and responsibilities of the position occurs.
  - (1) Significant and permanent changes in the duties and responsibilities of the position must be reported to the Administrative Office of the Courts.
  - (2) A position must be officially reclassified before a supervisor can take any personnel action with respect to employment or pay adjustment. The Administrative Office of the Courts shall be responsible for evaluating and reclassifying positions.
  - (3) Reclassification shall not be used as a means to resolve performance-related problems, grievance issues, or to take place of disciplinary actions.
  - (4) An employee occupying a reclassified position shall be entitled to continue to serve in the reclassified position, if the employee meets the qualification requirements. If the employee is a regular status employee, he or she will retain that status.
- (E) Notice of Classification or Reclassification Decisions. For each position classified or reclassified, the Administrative Office of the Courts will issue written notice of the decision to the supervisor. The decision will specify the class to which the position has been allocated and the pay grade assigned. The

supervisor will be responsible for initiating the necessary paperwork to reflect the decision.

#### **Rule 38: Layoff**

- (A) When a permanent position(s) cannot be continued due to lack of work, lack of funds, or reorganization, the position(s) shall be abolished and vacated by layoff.
- (B) For layoff purposes, employees shall be put into the following status groups: regular employees and probationary employees. Temporary employees will be terminated before layoff procedures are initiated and shall not constitute a status group for layoff purposes. Probationary employees shall be laid off before regular employees. In determining the order of layoff of regular employees, the following factors shall be considered: seniority, performance appraisals, qualifications, work record, conduct, and needs of the Judicial Branch to provide services to the public.
- (C) All layoffs will be conducted with conformity with the Navajo Preference in Employment Act.
- (D) Employees to be laid off shall be given written notice at least fifteen (15) calendar days prior to layoff date. Notice of layoff may be less than the fifteen (15) calendar day requirement if stoppage of work results from circumstances beyond the control of the Judicial Branch, such as when program funding is terminated, positions are not refunded, or funds are not available to continue program operations. In all cases, however, employees must be given as much notice as possible.
- (E) Reemployment Preference.
  - (1) Regular status employees separated from employment due to layoff may be eligible for reemployment preference.
  - (2) Reemployment preference will not be granted to an employee who has not attained regular status at the time of layoff.
  - (3) A reinstated employee is an individual who is reinstated within one year following separation from prior employment with the Judicial Branch due to layoff.
- (F) The Chief Justice has the ultimate authority concerning layoff.

#### **Rule 39: Resignation**

An employee may voluntarily terminate employment with the Judicial Branch.

- (A) The employee shall submit for acceptance a letter of resignation to the supervisor at least ten (10) working days prior to the effective date of resignation.
- (B) The supervisor shall provide the employee a written acknowledgement that the resignation was accepted.
- (C) Upon acceptance, the supervisor shall submit a copy to the Director of Judicial Administration for Personnel Action Form (PAF) processing.
- (D) Failure of an employee to give at least ten (10) working days notice may result in the forfeiture of all accrued annual leave.
- (E) No letter of resignation shall be withdrawn after written acceptance by the supervisor.

#### **Rule 40: Retirement**

An employee may retire in accordance with the Navajo Nation Retirement Plan. The employee must give notice at least ten (10) working days prior to retirement.

#### **Rule 41: Involuntary Termination**

- (A) An employee may be involuntarily terminated by the supervisor for just cause.
- (B) An employee who becomes physically or mentally impaired to the extent he or she is unable to perform the duties and responsibilities of the position description may be involuntarily terminated by the supervisor. Termination for disability shall be only upon the written statement of a physician that the condition is, or is likely to be, long term or permanent. Long term means any disability where the employee is not likely to be able to perform the duties and responsibilities of the position description in excess of one year.

#### **Rule 42: Death**

- (A) When advised of an employee's death, the supervisor shall immediately notify the Director of Judicial Administration.
- (B) The Director of Judicial Administration shall assure that arrangements are made to provide payment to the employee's beneficiary or estate of any salary, overtime pay, reimbursements, or accrued annual leave payments due.
- (C) An employee is considered to have been on pay status on the day of death, unless a leave without pay had been previously approved for that day.
- (D) The effective date of the separation shall be the date of death.

### **V. CODE OF CONDUCT**

#### **Rule 43: Scope and Policy**

This Code of Conduct within the JBPR replaces and supersedes the Employee Code of Conduct of 1991. This Code of Conduct is intended as guidance for the conduct of all Judicial Branch employees who are not judges or justices. Employment with the Judicial Branch of the Navajo Nation is a public trust. Each employee shall act in a manner which conforms to standards of integrity, public faith, and confidence.

#### **Rule 44: Health and Safety**

- (A) Employee.
  - (1) Safety. Employees have a duty to report to the supervisor all unsafe or unhealthy conditions in and around the workplace.
  - (2) Job-Related Illness or Injury. Employees have a duty to report all job-related illnesses or injuries to the supervisor within seven (7) days. The Navajo Nation has a one (1) year statute of limitations for reporting job-related illnesses or injuries.
  - (3) Health and Physical Condition. An employee shall report to the supervisor any personal physical condition or illness which may negatively affect the employee's ability to perform the minimum duties of the position description. When the supervisor has reason to believe that an employee's chronic substance abuse or physical or mental health substantially impedes the satisfactory performance of the duties, tasks,



and responsibilities assigned to the employee, the employee may be required to undergo, at his expense, an examination by a licensed physician. The employee shall provide the results of the examination to the supervisor. Employees shall submit written waivers of doctor/patient confidentiality as required by the supervisor. This waiver is only to be used by the supervisory authority for the limited purpose of speaking with a doctor in order to gain more information concerning the length of time an employee may be absent from work, whether there are special limitations required on an employee's duties, the length of time for such limitations, or whether accommodations must be made for an employee. It is not to be used to gather information concerning an employee's health problem(s).

(B) Supervisor.

- (1) Job-Related Illness or Injury. The supervisor shall immediately report in writing all job-related illnesses or injuries to the Director of Judicial Administration. The report shall be faxed in the case of an emergency.
- (2) Work Environment.
  - (a) No employee shall be compelled to work where physical conditions present an immediate danger to the employee's physical safety, health, or well-being.
  - (b) Supervisors are responsible for determining whether conditions of travel, a particular assignment, or physical work environment, including office buildings, constitute a potential danger to the safety, health, or well being of personnel and initiating appropriate actions.
  - (c) In situations involving the work environment, the supervisor shall notify the Director of Judicial Administration.

**Rule 45: Workplace Violence**

- (A) Workplace violence is any behavior that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for his or her safety or property. Any behavior that is offensive, threatening, or intimidating will not be tolerated. Violent behavior on the job includes, but is not limited to:
- (1) Any conduct that causes harm or injury to another person;
  - (2) Threatening physical or aggressive contact at another person;
  - (3) Intentional destruction or threat of destruction to government or private property;
  - (4) Expressing intent to cause physical harm or emotional duress;
  - (5) Creating a hostile work environment by unwelcome words, veiled threats, intimidation, actions, or physical contact, even if such action does not result in physical harm;
  - (6) Surveillance or stalking of an employee outside the workplace; or
  - (7) Communication of suicidal or homicidal thoughts.
- (B) Violence or the threat of violence has no place in the Judicial Branch. Employees are expected to treat one another and the public with mutual respect. Any person, including employees, who acts in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits.
- (C) Any employee engaging in behavior as described in this rule of the JBPR is subject to suspension or termination. An employee may be immediately



suspended and barred from a Judicial Branch building pending the outcome of an investigation.

- (D) Threats from the Public. It is the supervisor or bailiff's responsibility to remove from the premises as quickly as safety permits, any person who acts in a violent or threatening manner, either verbal or physical in nature. At the supervisor's discretion or by order of a judge, a member of the public may be barred from any Judicial Branch buildings. If there is an imminent threat to safety, the police or fire department should be contacted immediately.

**Rule 46: Citations or Accidents Involving  
a Navajo Nation Vehicle**

- (A) While operating a tribal motor vehicle, employees shall abide by the Navajo Nation Motor Vehicle Operator's Handbook and obey all Navajo Nation traffic laws. When operating a vehicle outside the Navajo Nation, employees must obey all appropriate motor vehicle laws.
- (B) Employees shall immediately report to their supervisor all traffic citations from any jurisdiction, accidents, or damages incurred to a tribal vehicle during the operation of a tribal vehicle.
- (C) Supervisors shall immediately notify the Director of Judicial Administration when informed by an employee of a receipt of a traffic violation, of a traffic accident, or of damage to a Navajo Nation vehicle.

**Rule 47: Unlawful Act**

- (A) Reporting Criminal Offenses. Any employee charged with a criminal offense in any jurisdiction shall immediately report the facts of the charge to the supervisor. A criminal offense is an alleged violation of any law which is denominated as criminal in the charging jurisdiction, or which carries the penalty of jailing, imprisonment, criminal fine, or other criminal sanctions. Criminal offenses include criminal traffic violations, excluding citations in jurisdictions with civil offenses or non-moving violations (for example, parking tickets).
- (B) Investigatory Leave.
- (1) An employee charged with a criminal offense may be placed upon investigatory leave, pursuant to Rule 25(D), pending the outcome of the criminal proceedings.
  - (2) If an employee is placed upon investigatory leave, the employee may receive paid investigatory leave for up to thirty (30) calendar days at the regular rate of pay. Only the Chief Justice may extend the period of paid investigatory leave beyond this time.
  - (3) When an employee is placed upon investigatory leave, the supervisor shall immediately notify the Chief Justice of the action taken and the dates of the thirty (30) day paid investigatory leave. Upon review, the Chief Justice may order that the employee be placed upon unpaid investigatory leave prior to the end of the thirty (30) day period.
  - (4) Nothing in this Rule shall prohibit independent disciplinary action against an employee concerning the same conduct related to the charge of a criminal offense if that conduct involved a violation of any of the JBPR.
  - (5) Disciplinary action in accordance with Rule 57 of the JBPR may be initiated immediately. The employee may make a written request that

disciplinary action be delayed until after the criminal process is completed. Any postponement granted is subject to leave without pay for the period of postponement.

- (C) Termination. The supervisor may determine that the outcome of a criminal proceeding requires termination of the employee without further investigation.

#### **Rule 48: Sexual Harassment**

- (A) Purpose. This policy is hereby established to prohibit sexual harassment; whether it be verbal, non-verbal, or physical and to provide a process whereby any act or conduct alleged to be of a sexually harassing nature can be formally reported, investigated, and resolved in a systematic manner. Sexual harassment is unacceptable and will not be tolerated in the workplace or in other work-related settings, such as business trips and business-related social events. Those covered by this policy include all Judicial Branch personnel. Sexual harassment complaints against those individuals who conduct business with the Judicial Branch, including but not limited to legal counsels, peacemakers, and litigants, shall be handled by other appropriate processes.

- (B) Complaint Procedure.

- (1) Individuals who believe they have been or are being sexually harassed are encouraged to firmly and promptly notify the offender that his or her behavior is not welcomed. However, where circumstances make such confrontation uncomfortable or where confrontation is ineffective in altering the offender's behavior, a complaint should be reported as follows:
  - (a) Notify the supervisor in writing or by electronic recording to initiate an investigation. If the supervisor is the alleged harasser, the complaint should be provided to a judge or the next level of supervisory authority.
  - (b) Where an employee believes it is futile to report the alleged harassment locally or within the judicial district, office, or locale where he or she is employed, the employee shall report, in writing or by electronic recording, to a member of the executive staff he or she believes will address his or her complaint adequately.
  - (c) If a judge is the alleged harasser, the complaint shall be processed pursuant to Judiciary Committee of the Navajo Nation Council Resolution JCJA-02-03, "Approving and Adopting the Personnel Policies for Navajo Nation Judges and Justices".
- (2) Timely Reporting of Complaints. While prompt reporting is encouraged, no time limits will be placed on reporting sexual harassment. An employee should report an incident as close in time to the incident as possible to facilitate the investigation. However, late reporting will not in and of itself preclude a judicial district, office, or program from taking action in accordance with this policy. A late complaint shall only be dismissed for being untimely if the passage of time precludes a fair investigation of the complaint due to factors such as, insufficient memory of witnesses, unavailability of witnesses, or similar evidentiary difficulties. For purposes of this rule, a complaint will be considered late if it is filed more than one year from the last incident of sexual harassment.

- (3) Retaliation Prohibited. There shall be no retaliation against an individual for reporting sexual harassment or permit any other Judicial Branch employee to do so. Retaliation is a serious violation of this policy and should be reported immediately. Any person found to have retaliated against a complainant will be subject to disciplinary action.
- (4) Confidentiality. A written or electronically recorded allegation of sexual harassment brought to the attention of the supervisor or a judge shall be promptly and thoroughly investigated in a confidential manner to protect the privacy of the individuals involved. Confidentiality will be maintained throughout the investigation to the extent practical and appropriate under the circumstances.

(C) Investigating the Complaint.

- (1) Investigation Process. The supervisor shall notify the Chief Justice who will appoint an investigator. The investigator will thoroughly investigate the complaint. The investigator shall:
  - (a) Confirm the name and position of the complainant.
  - (b) Identify the alleged harasser.
  - (c) Thoroughly ascertain, in a non-judgmental manner, all facts that explain what happened.
  - (d) Determine the frequency and type of all alleged harassment. If possible, obtain dates and locations where the alleged harassment occurred.
  - (e) Identify and interview any witnesses.
  - (f) Ask the complainant how he or she responded to the alleged harassment.
  - (g) Determine whether the complainant consulted anyone else about the alleged harassment.
  - (h) Determine the relationship, degree of control, and amount of voluntary or involuntary interaction between the alleged harasser and the complainant.
  - (i) Determine whether the alleged harasser has made or carried out any threats or promises directed at the complainant.
  - (j) Determine if the complainant knows of or suspects that there are other individuals who have been harassed by the alleged harasser.
  - (k) Obtain any other information pertinent to the investigation.
- (2) Completing the Investigation.
  - (a) Upon completing the investigation, the investigator shall submit in writing his or her findings and conclusions to the Chief Justice.
  - (b) Finding of No Occurrence of Sexual Harassment. If it is determined that no sexual harassment has occurred, this finding will be communicated to the complainant in an appropriately sensitive manner.
  - (c) Finding of Sexual Harassment. A finding of sexual harassment will subject the harasser to appropriate disciplinary procedures as indicated in Rule 57 of the JBPR.
  - (d) Finding of False Accusation. If an investigation results in a finding that the complainant falsely accused another of sexual harassment,



knowingly, recklessly, or in a malicious manner, the complainant will be subject to sanctions, including suspension or termination.

#### **Rule 49: Political Activity**

- (A) Each employee retains the right to vote as the employee chooses and is free to make political contributions as a private individual.
- (B) No employee shall be a candidate in any political office.
- (C) No employee shall participate in any political activity.
  - (1) Political activities include:
    - (a) displaying or distributing campaign literature, badges, stickers, signs, or items of political advertising on behalf of any party, committee, agency, or candidate for elective office at the work site;
    - (b) using official authority or position directly or indirectly, to influence or attempt to influence any other employee in the Judicial Branch to become a member of any political organization, support a specific candidate, or to take part in any political activity;
    - (c) soliciting signatures for political candidates; and
    - (d) soliciting or receiving funds for political purposes.
  - (2) Political activities do not include:
    - (a) voting;
    - (b) attending debates, rallies, forums, etc., for information purposes so long as the employee does not publicly identify nor permit himself to be publicly identified as a Judicial Branch employee; or
    - (c) signing nominations or recall petitions or legislative initiatives so long as the employee does not publicly identify nor permit himself or herself to be publicly identified as a Judicial Branch employee.
- (D) Employees shall not use copy machines, fax machines, email, computers, telephones, offices, or other government property for political purposes.
- (E) Employees shall not engage in any political activity while at work.
- (F) No employee shall serve as a poll watcher, poll clerk, precinct judge, or other election worker.

#### **Rule 50: Outside Employment**

Outside employment is permissible only:

- (A) If it is approved in writing by the supervisor and submitted to the Administrative Office of the Courts for placement in the official personnel file.
- (B) If it is not with an entity that regularly appears in court or conducts business with the Judicial Branch, and it does not require the employee to have frequent contact with counsel who regularly appear in the court system.
- (C) If it is capable of being fulfilled outside normal working hours and is not incompatible with the performance of the employee's duties and responsibilities.
- (D) If it does not require or induce the employee to disclose confidential information acquired in the course of and by reason of official duties.
- (E) If it does not compromise the integrity of the Judicial Branch in any fashion.

#### **Rule 51: Personal Appearance**

It is the policy of the Judicial Branch that each employee's attire, grooming, and personal hygiene should be appropriate to the work situation.



- (A) Employees are expected at all times to present a professional, businesslike image to the public. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with the Judicial Branch. Radical departures from conventional attire and hygiene are not permitted.
- (B) Office workers and any employees who have regular contact with the public must comply with the following personal appearance standards:
  - (1) Employees should not wear suggestive attire, jeans, athletic clothing, shorts, sandals, t-shirts, novelty buttons, baseball hats, and similar items of casual attire that do not present a professional appearance.
  - (2) Hair should be clean, combed, and neatly trimmed or arranged.
  - (3) Sideburns, moustaches, and beards should be neatly trimmed.
  - (4) Tattoos and body piercings (other than earrings) should not be visible.
- (C) Certain employees may be required to meet special attire standards, such as wearing uniforms, depending on the nature of their job.
- (D) At its discretion, the Judicial Branch may allow employees to dress in a more casual fashion than is normally required. On these occasions, employees are still expected to present a neat appearance.
- (E) Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leaving the premises without pay for absence. Recurrent violations of this policy also will result in further disciplinary action.

#### **Rule 52: Confidentiality**

- (A) No employee shall disclose to any unauthorized person any confidential information acquired in the course of employment or acquired through unauthorized disclosure from another.
- (B) Confidential information that is available to specific individuals by reason of statute, court rule or administrative policy shall be released only by persons authorized to do so.
- (C) Every employee shall report to the supervisor the release of confidential information when the employee reasonably believes that the information released constitutes evidence of a violation of law or unethical conduct. No employee shall be disciplined for such reporting. Any retaliation for such reporting against an employee may constitute cause for disciplinary action.
- (D) Employees may respond to inquiries concerning court procedures, but an employee shall not give legal advice.
- (E) All media requests for information and interviews shall be referred to the Judicial Branch employee designated by the Chief Justice as the media liaison officer.
- (F) Employees must be very careful when discussing all court matters, whether they are confidential or not. Individuals who come to Navajo courts, whether on their own or because they are required to do so, usually come under very stressful circumstances. They may be faced with having to deal with very personal, sensitive, embarrassing, or humiliating matters in a public forum. The courts must deal with these matters in a neutral, dignified and objective manner. It is essential that court employees reflect and uphold the dignity of the court. The communication of court matters outside of work must be kept to a minimum.

Employees must not make individuals who come to the court subjects of public comment, gossip, scorn or ridicule.

#### **Rule 53: Ex Parte Communication**

Ex parte communication is communication, written or oral, regarding a legal matter between less than all interested parties or their counsel and a judge or justice and/or the judicial staff.

- (A) No employee shall initiate or repeat ex parte communications from litigants, witnesses or attorneys to judges, jury members or any other person, except where permitted by law.
- (B) Exempted Communications. The above shall not apply to communication between the judge or justice and such law clerks, attorneys, or other employees whose responsibility is to advise the judge or justice. It also shall not apply to routine communication between judicial staff and counsel regarding scheduling, filing requirements, and similar matters. Employees shall help pro se litigants and other members of the public by informing them of the existence of pro se forms and other resources available to help them with the litigation process. Pro se litigants shall be provided with the same information provided to counsel about scheduling, filing requirements, and similar matters.
- (C) Penalty. A violation of this rule may result in disciplinary action taken against the employee. Disciplinary actions may include termination for a severe violation for a repeat violation of this rule.

#### **Rule 54: Conflict of Interest**

- (A) Every employee shall avoid conflicts of interest in the performance of professional duties.
  - (1) A conflict of interest exists when the employee's objective ability in the performance of his or her job is, or reasonably appears to be, impaired, or when the employee or the employee's immediate family or business would derive financial gain or other benefit as a result of the employee's position within the Judicial Branch.
  - (2) A conflict of interest also exists when an improper benefit or detriment may result in a personal or economic interest of an employee because of employment within the Judicial Branch.
- (B) Prohibited Activities:
  - (1) No employee shall contract with the Judicial Branch.
  - (2) No employee shall receive gratuities or other compensation for representing, assisting, or consulting with parties engaged in transactions or involved in proceedings with the court.
  - (3) No former employee shall contract or engage in a commercial transaction with the Judicial Branch for one (1) year after terminating employment.
  - (4) No former employee, who has had a role in a case before the Courts of the Navajo Nation, shall derive any benefit from a party or an advocate or counsel for the party. This period of prohibition shall extend for the longer of the following periods: (1) the case is active, or (2) one year after leaving employment.

- (5) No employee shall knowingly employ, advocate, or recommend for employment any member of his or her immediate family or immediate Navajo clan relatives.
- (6) No employee shall solicit nor accept any gifts, loan, gratuities, discounts, favors, hospitality, or services under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the employee in the performance of official duties.
  - (a) Nothing in this section shall prohibit an employee from accepting a public award for public service.
  - (b) Employees shall not receive gifts or donations on behalf of the Judicial Branch and/or the Navajo Nation.
  - (c) Nothing in this section shall prohibit an employee from accepting unsolicited personal gifts of food or drink which have a nominal value.
- (7) No employee shall use nor permit the use of Judicial Branch facilities for activities unrelated to the business of the courts.
  - (a) No part of the Judicial Branch premises nor any portion of working hours shall be used for the purposes of raising or soliciting funds. This shall not include:
    - 1. Fund raising for an employee group activity in which the sole source of funds or those solicited are Judicial Branch employees;
    - 2. Vending machines when the proceeds, profits, or commissions are paid to the Navajo Nation;
    - 3. Individual vendors selling their handmade products.
    - 4. The above shall not include solicitation by auxiliary groups for authorized court activities.
  - (b) No part of the Judicial Branch premises nor any portion of working hours shall be used for social activities. These shall not include:
    - 1. Justice Day or other informational activities of the courts;
    - 2. Mock court proceedings;
    - 3. Reception of visitors;
    - 4. Potluck or sharing of food solely among employees so long as it is conducted in areas to which the public does not have access.

#### **Rule 55: Discrimination**

- (A) All employees of the Judicial Branch must treat other employees, all parties who appear before the courts, and the public without discrimination or unequal treatment. It is not permitted to give favorable or unfavorable treatment, or even the appearance of such treatment, by words or conduct, on the basis of race, religion, national origin, gender, sexual orientation, disability, age, profession, socio-economic status, political affiliation, or clan relationship.
- (B) The courts must be neutral at all times. All personnel shall avoid even the appearance of favoritism. The courts are a public service organization whose main goal is to provide service to the public. To obtain the public's confidence in the courts, personnel must be fair to everybody and not favor one side over the other. Employees must not show deference to one side in a case, do special



favors for one side or give advice to one side that they would not give to the other. Employees must be careful that they do not even appear to be giving special treatment to one side.

#### **Rule 56: Performance of Duties**

- (A) Every employee shall perform official duties in a proper and diligent manner.
- (B) Every employee shall apply full-time energy to the duties and responsibilities of the employee's job during working hours.
- (C) Every employee shall serve the public in a courteous and professional manner.
- (D) Every employee shall obtain and maintain current licenses or certificates which are required as a condition of employment.
- (E) No employee shall alter, backdate, falsify, destroy, mutilate, or fail to make required entries on any records within the employee's control, except pursuant to a lawful order.
- (F) No employee shall give legal advice unless authorized by his or her position description.
- (G) No employee shall selectively recommend legal counsel, but may make available the Navajo Nation Bar Association membership listings.
- (H) No employee shall refuse to enforce or otherwise carry out any properly issued directive or court order. No employee shall be required to perform any unreasonable duties.
- (I) Every employee shall immediately report violations of the JBPR to the appropriate designated authority within the Judicial Branch.
- (J) Employees who are lawyers, advocates, or members of other professional groups are also bound by their respective professional duties and codes of conduct.

### **VI. DISCIPLINARY ACTION**

#### **Rule 57: Corrective Action and Disciplinary Process**

- (A) Progressive Discipline. The Judicial Branch follows the principles of progressive discipline. These principles require that employees be given the opportunity to correct misconduct or deficiencies in work performance. The goal is to retain an employee when it is prudent to do so. Counseling, instruction, training, and providing time to conform conduct or performance to required standards are the means for correction. Disciplinary action may also be imposed to emphasize the seriousness of the employee's failure to meet required standards.
- (B) Steps of Progressive Discipline. Correction by a supervisor includes counseling with no disciplinary consequences, oral reprimands, written reprimands, suspension, and termination. Generally, in progressive discipline, an employee would face increasing disciplinary actions in this sequence. Suspensions may or may not follow after one (1) written reprimand. However, if an employee receives two (2) written reprimands within a twelve-month period, the next disciplinary action will be a mandatory suspension. In most instances, a counseling session between the employee and the supervisor will be held before there is any disciplinary action taken. No counseling session is required prior to disciplinary action if the same misconduct or deficiency in performance has been counseled on three (3) prior occasions.



(C) Imposition of Disciplinary Action. Disciplinary action may be imposed for either misconduct or a deficiency in performance.

- (1) Misconduct. Misconduct occurs when the employee violates the JBPR or other written conduct policies established by the Judicial Branch. Misconduct includes behavior outside the workplace if it victimizes another employee or harms the integrity and professionalism of the Judicial Branch judicial districts, offices, or programs.
- (2) Deficiencies in Performance. Deficiencies in performance occur when an employee fails to meet the necessary requirements in his or her position description; falls to a level of performance below the level of performance he or she has consistently maintained in the past; commits excessive tardiness on a regular basis; abuses lunch or break time standards; fails to notify the supervisor in advance concerning lateness or absence; or fails to meet the necessary standards of appearance required for the workplace.

(D) Addressing Employee Misconduct or Deficiencies in Performance.

- (1) The supervisor shall determine whether an employee needs counseling concerning misconduct or deficiency in performance. If the supervisor receives a report from a third person, the supervisor must first investigate in order to determine if the report is true. If the report has no merit, the supervisor is not required to take further action.
- (2) If the supervisor has direct knowledge of the misconduct or the deficiency of performance, or if a report received by the supervisor has merit, the supervisor shall conduct a conference with the employee.
- (3) A conference for the purpose of counseling and solving problems shall be initiated and facilitated by the supervisor. At the conference the supervisor shall inform the employee of the allegations that are the subject of the conference. The supervisor shall document in writing the date, substance, and results of the conference.
- (4) If the employee admits to the allegations set forth in the conference, he or she shall have the opportunity to recommend a solution to resolve the problem without the imposition of disciplinary action. The supervisor shall give the employee a reasonable time to implement a plan designed to improve or correct the employee's actions.
- (5) If the employee does not agree with the allegations put forth in the conference, the supervisor shall listen to the employee's explanation and after the conference complete whatever investigation is necessary to confirm or deny the employee's explanation.
- (6) If, after further investigation, the supervisor determines that the allegations are true, or if an acceptable solution is not achieved after the initial conference, the supervisor may choose to resolve the matter with further counseling, or impose disciplinary action.
- (7) An employee shall not receive more than one (1) disciplinary action for a single instance of conduct, but he or she may receive further disciplinary action for additional violations of the same or similar nature, as well as for acts of a different nature.

(E) Disciplinary Action. Disciplinary action is action taken by the supervisor in response to unsatisfactory conduct or performance by an employee. It is the

imposition of correction on employee misconduct or deficiencies in performance by verbal reprimand, written reprimand, suspension, or termination. A reprimand is a verbal or written statement to an employee citing a deficiency in work performance or conduct.

- (1) **Verbal Reprimand.** In those instances when employee conduct is of a minor nature or a first offense, the supervisor shall have a conference with the employee to advise that a verbal reprimand is being administered. The supervisor shall:

- (a) explain the reason for the warning;
- (b) suggest corrective action for the deficiency;
- (c) give the employee notice that two (2) more warnings within a twelve (12) month period shall result in a written reprimand;
- (d) explain that failure to carry out counseling guidance may be declared to be an act of insubordination and may subject the employee to a separate disciplinary action; and
- (e) explain that the employee may also challenge the disciplinary action in accordance with Rule 59 of the JBPR.

After the meeting, the supervisor shall document (1) the date of the warning; (2) the nature of the offense; and (3) the warning administered. The written document shall be retained for one year. After one year, the document shall be destroyed if no further misconduct or deficiency in performance of a similar nature requires disciplinary action.

- (2) **Written Reprimand.** When misconduct or a deficiency in performance is repeated after a verbal reprimand, the supervisor may issue a written reprimand. If an employee commits serious misconduct, a written reprimand may be issued without a prior verbal reprimand.

- (a) The supervisor must conduct a conference when the written reprimand is issued to explain the reasons for the reprimand, the corrective actions required to be completed by the employee, and the possible consequences to the employee if performance or conduct is not corrected in the future. The failure of an employee to follow the guidance provided at this conference may be considered to be an act of insubordination, subject to its own disciplinary action. Such insubordination may also subject the employee to suspension or termination.
- (b) Depending upon the nature and seriousness of the misconduct or deficiency in performance that is the subject of the written reprimand, an employee may be suspended or terminated if the same or similar conduct is repeated. The supervisor may also choose to issue another written reprimand if such action is considered the best means of corrective action. Two (2) prior written reprimands in a twelve-month period on the same or similar conduct shall result in suspension if there is a third violation.
- (c) An employee may challenge a written reprimand by following the requirements in Rule 59 of the JBPR.
- (d) After explaining the reprimand, both the employee and the supervisor shall sign and date the reprimand. The signature of the employee does not indicate agreement with the reprimand, but

indicates that he or she has been informed of the contents and has received a copy of the written reprimand. If the employee refuses to sign or accept, the supervisor shall note the refusal.

- (e) After giving a copy of the written reprimand to the employee, the supervisor shall send the original to the Director of Judicial Administration for placement in the employee's official personnel file at the Administrative Office of the Courts. A copy shall be retained by the supervisor.
- (3) Suspension. Suspension is a disciplinary action that removes an employee from work without pay for a set period of time.
- (a) If an employee violates established workplace standards in a severe manner, the supervisor may impose suspension, if justified, without any prior problem-solving conference or lesser steps in disciplinary action. If justified, suspension may be imposed although no previous disciplinary action against the employee has been taken. Section (H) of this Rule provides guidance to the supervisor on which offenses may justify the imposition of suspension.
  - (b) Suspension may also be imposed if conduct is not improved following a written reprimand. In all cases, suspension shall be imposed following a third violation after two (2) written reprimands were issued upon the same or similar conduct within the past twelve-month period.
  - (c) The supervisor must provide in writing the fair reasons, supported by facts, which justify the suspension.
  - (d) A suspension of leave without pay up to thirty (30) calendar days may be approved by the supervisor.
  - (e) A suspension of leave without pay for more than thirty (30) calendar days requires approval by the Director of Judicial Administration.
  - (f) Before imposing suspension, the supervisor shall hold a conference with the employee and explain the following: 1) The reason(s) for the suspension. (2) The corrective actions required to be taken by the employee upon return to work. (3) Further consequences of increased suspension or termination if the employee's conduct is not corrected or improved. (4) The employee may challenge the suspension in accordance with Rule 59 of the JBPR.
  - (g) After explaining the suspension, both the employee and the supervisor shall sign and date the suspension. The signature of the employee does not indicate agreement with the reasons for suspension, but indicates that he or she has been informed of the contents and has received a copy. If the employee refuses to sign or accept, the refusal shall be noted by the supervisor.
  - (h) After giving a copy of the written suspension to the employee, the supervisor shall immediately send the original to the Director of Judicial Administration for placement in the employee's official personnel file at the Administrative Office of the Courts. A copy shall be retained by the supervisor.



(4) Termination. Termination is a drastic action which may be imposed for the most extreme acts of misconduct or for the continual violation of workplace standards that was the subject of previous disciplinary actions.

- (a) If an employee violates established workplace standards in an extreme manner, the supervisor may impose termination, if justified, without any prior problem-solving conference or lesser steps in disciplinary action. If justified, termination may be imposed although no previous disciplinary action against the employee has been taken. Sections (F) and (G) of this Rule lists conduct which may justify termination of any employee.
- (b) Termination may also be imposed if conduct is not improved following a suspension. The supervisor must determine if termination rather than further suspension is appropriate, considering the nature and extent of the continuing problem. Termination may also be imposed, if justified, upon the third violation concerning the same or similar conduct that is the subject of two (2) prior written reprimands in the same twelve-month period.
- (c) The supervisor must provide in writing the fair reasons, supported by facts, which justify the termination.
- (d) Before imposing termination, the supervisor shall hold a conference with the employee to explain the following:
  - 1. The supervisor is recommending the termination.
  - 2. The reason(s) for the termination.
  - 3. The employee may challenge the termination in accordance with Rule 59 of the JBPR, if the Director of Judicial Administration approves the recommendation.
- (e) After explaining the recommendation for termination, both the employee and the supervisor shall sign and date the recommendation. The signature of the employee does not indicate agreement with the recommendation, but indicates that he or she has been informed of the contents and has received a copy of the written recommendation. If the employee refuses to sign or accept a copy of the recommendation, the refusal shall be noted on the recommendation by the supervisor.
- (f) After giving a copy of the written recommendation to the employee, the supervisor shall immediately send the original to the Director of Judicial Administration for placement in the employee's official personnel file at the Administrative Office of the Courts. A copy shall be retained by the supervisor.
- (g) Upon approval by the Director of Judicial Administration, the termination shall become effective.

(F) Grounds for Termination on the First Offense.

- (1) Theft of Navajo Nation property greater than \$100;
- (2) Intentional misuse of Navajo Nation funds;
- (3) Solicitation or acceptance of bribes or kickbacks;
- (4) Falsification or unauthorized alteration of any Navajo Nation record;
- (5) Concealing, removing, mutilating, obliterating, or destroying Navajo Nation records or documents without authorization;



- (6) False statement(s) of material fact in the employment application or related documentation;
- (7) Maintaining second or outside employment without proper approval;
- (8) Contracting or recommending a contract with a party where the employee has an equity or other beneficial interest, limited only to employees who have influence over the contracting process;
- (9) Fraud and/or conspiracy to commit fraud;
- (10) Perjury in court or before an official Navajo Nation body or tribunal;
- (11) Planning, initiating, participating in or assisting in the conduct of any riot or unlawful demonstration;
- (12) Sexual harassment by a supervisor;
- (13) Operating a tribal vehicle under the influence of alcohol, an illegal drug, or a controlled substance not prescribed by an authorized medical professional;
- (14) Malicious damage to Navajo Nation property, including, but not limited to, graffiti, vandalism, etc.;
- (15) Endangering the physical, well-being of any individual, including, but not limited to, threats of or actual violence;
- (16) Disclosing confidential court-related or Judicial Branch termination-related information to unauthorized persons.

**(G) Ground for Termination on the Second Offense.**

- (1) Severe misconduct which calls into question one's fitness for continued employment in that position with the Judicial Branch;
- (2) Sexual harassment by a non-supervisor employee;
- (3) Operating a vehicle under the influence of alcohol, an illegal drug, or a controlled substance not prescribed by an authorized medical professional;
- (4) Display or use of intoxication on the job from alcohol, an illegal drug, or a controlled substance not prescribed by an authorized medical professional;
- (5) Possession of unauthorized weapon(s) in the workplace;
- (6) Use of a tribal vehicle in violation of the motor vehicle regulations, including, but not limited to, use of a tribal vehicle for personal reasons;
- (7) Theft of Navajo Nation property in any amount.

**(H) Grounds for Suspension on the First Offense.**

- (1) Severe misconduct which calls into question one's fitness for continued employment in that position with the Navajo Nation;
- (2) Sexual harassment;
- (3) Reckless or negligent misuse of Navajo Nation property;
- (4) Misappropriation of services;
- (5) Neglect of duty;
- (6) Failure to directly call or report to the supervisor for three (3) consecutive days.
- (7) Excessive absenteeism, including tardiness;
- (8) Unsatisfactory work performance;
- (9) Performing activities for personal gain when on the job, including, but not limited to, campaigning for political office during work hours;

- (10) Display of intoxication on the job from alcohol, an illegal drug, or a controlled substance not prescribed by an authorized medical professional;
  - (11) Habitual use of intoxicants to excess which affects job performance;
  - (12) Mistreatment of any individual(s) which jeopardizes health or safety;
  - (13) False accusation against employee(s);
  - (14) Violation of safety regulations which endangers oneself or others;
  - (15) Possession of unauthorized weapon(s) in the workplace;
  - (16) Use of a tribal vehicle in violation of the motor vehicle regulations, including, but not limited to, use of a tribal vehicle for personal reasons;
  - (17) Failure to treat the public or fellow employees with courtesy;
  - (18) Use of abusive or vulgar language and/or gestures.
- (I) Exhaustion of Administrative Remedies. All administrative remedies available within the Judicial Branch shall be exhausted before employees seek other remedies.

#### **Rule 58: Causes for Disciplinary Action**

These shall include, but are not limited to:

- (A) Violation of Navajo Nation law or the JBPR.
- (B) Careless, negligent, or prohibited use of court property, equipment, or funds;
- (C) Insubordination, which is failure to accept or follow a reasonable and proper instruction from a supervisor or judge;
- (D) Inefficiency, incompetence, physical or mental inability, or negligence in the performance of assigned duties;
- (E) Threats, abuse or intimidation of others, or disruptive conduct;
- (F) Employees encouraging or failing to take steps to prevent members of his or her family, friends, or associates to disrupt, interrupt, cause discord, intimidate, harass, or promote disharmony of personnel or official operations;
- (G) Unauthorized absence from work;
- (H) Excessive tardiness in reporting to work;
- (I) Use of undue influence to attempt to gain promotion, leave, favorable assignment, or other individual benefit or advantage;
- (J) Disrespect for appropriate authority within the Judicial Branch;
- (K) Intentional falsification or mishandling of court records;
- (L) Use of influence to attempt to affect the outcome of a court or administrative action;
- (M) Use, sale, possession, or being under the influence of alcohol or illegal or controlled drugs while on duty;
- (N) Conduct which reflects adversely upon the integrity of the Navajo Nation courts;
- (O) Failure to treat the public with courtesy and respect;
- (P) Unauthorized political activity;
- (Q) Unauthorized disclosure of court files or records, deliberation on cases, or personnel records.
- (R) Failure to provide true, accurate, and complete information in an application for employment;
- (S) Performing personal services or making sales for private or individual gain during working hours or on Judicial Branch premises;

- (T) Retaliation against an employee for filing a grievance or for acting in accordance with the JBPR and tribal and federal laws.

#### **Rule 59: Informal Review Process**

The informal review process is not to be used for disciplinary actions that can be grieved under the formal grievance process. Attempting to utilize this process for those actions can result in untimely appeal that will deny the applicant relief. Consult Rule 57 for directions on which process to utilize.

- (A) Scope. For disciplinary actions that cannot be grieved under Rule 60 of the JBPR, an informal grievance process shall exist to allow an employee to ask the supervisor for a reconsideration of the discipline and to document the employee's objection to the discipline. No disciplinary action, which can be appealed through the Rule 60 process, may be grieved through this process. An attempt to grieve through this process does not extend the time deadlines to file under Rule 60. Any disciplinary action above a written reprimand or a performance evaluation may be grieved, pursuant to Rule 60. Thus, they are not proper subjects for the informal grievance process.
- (B) The procedures for the informal review process:
- (1) The employee may file a written response within five (5) working days of a disciplinary action with his or her supervisor, documenting the employee's objection to the discipline and the reasons that the employee believes the discipline is unfair. The response shall state the relief requested.
  - (2) The employee and the supervisor shall hold an informal hearing to discuss the matter within ten (10) working days after the written complaint. Within five (5) working days of the informal hearing, the supervisor shall inform the employee in writing of his or her decision. These time limits may be extended upon mutual written agreement.
  - (3) The decision of the supervisor shall be final and cannot be appealed.
  - (4) If the decision by the supervisor is to sustain the previous decision to discipline, the supervisor shall retain the employee's written response and the written decision with any other documentation of the incident and conference. In the case of verbal reprimands, no further action is necessary.
  - (5) If the disciplinary action was a written reprimand, the supervisor shall send the original of the written response and the decision to the Director of Judicial Administration for placement in the employee's official personnel file in the Administrative Office of the Courts. A copy shall be retained by the supervisor.

#### **Rule 60: Grievances**

- (A) Subjects of Grievances. An employee may grieve only disciplinary actions and performance evaluations which affect the employee's terms and conditions of employment. Disciplinary actions subject to grievance are suspension and termination. Conditions of employment include, but are not limited to, actions which affect the employee's job tenure, salary, working hours, or required duties.
- (B) Eligibility. Regular full-time and regular part-time employees are entitled to the grievance process.
- (C) Retaliation. Retaliation for challenges to disciplinary actions is prohibited.



(D) Procedural Requirements.

- (1) Written grievances shall be filed directly with the chairperson of the Judicial Branch Grievance Board (JBGB) by the grievant with a copy given to the supervisor. Grievances shall be filed, either by fax or delivery to the chairperson, within five (5) working days after the supervisor serves on the employee the written disciplinary action.
- (2) Within five (5) working days of receipt, the chairperson shall determine:
  - (a) if the written grievance is submitted on a timely basis; and
  - (b) if the JBGB has subject matter jurisdiction.
- (3) Grievances determined to be untimely filed, not subject to the jurisdiction of the JBGB, or not properly processed shall be denied by the chairperson and not accepted for formal grievance.
- (4) All grievances shall be initiated and processed during regular work hours.
- (5) The grievance shall state in detail the grievant's complaint and the relief requested.
- (6) Upon acceptance of the grievance, the chairperson shall set the matter to be heard within thirty (30) calendar days at an appropriate place convenient to the parties.
- (7) Within five (5) working days upon acceptance of the grievance, the chairperson shall give written notice of the time and place of the hearing to the board members and the affected parties.
- (8) The chairperson may compel the appearance of witnesses. Such witnesses shall be immediately notified. Any retaliation against an employee who participates as a witness is prohibited.
- (9) Failure of the grievant to appear at scheduled grievance hearings without good cause shall be deemed a withdrawal of the grievance.
- (10) Failure of the respondent to appear at scheduled grievance hearings without good cause shall result in the JBGB rendering a decision based on the record and testimony of available witnesses.
- (11) Right to Representation by Counsel. Grievants have the right to representation in all grievance proceedings by an attorney or advocate at their own expense. Counsel shall be a regular member of the Navajo Nation Bar Association. Respondent may be represented by counsel at its option, and, where a grievance is against a local judicial district, the assigned staff attorney to such district shall represent the respondent, except in the case of conflict.
- (12) Disqualification of Grievance Board Member. Either party may file a written motion to recuse a board member for good cause based on immediate relationships by blood or affinity, conflict of interest, or other reasons which may affect a fair hearing. The motion for recusal must be submitted to the JBGB chairperson at least ten (10) days before the date of the hearing. A determination on recusal shall be made before the scheduled hearing date. A board member may also voluntarily recuse himself or herself from participation in a grievance proceeding by notice to the chairperson.

- (E) The Judicial Branch Grievance Board. The Judicial Branch Grievance Board shall be composed of the following three (3) members: (1) a judge, appointed by the Chief Justice; (2) an employee representative or alternate, elected at large by



court personnel of the Judicial Branch; and (3) an individual with personnel management experience not employed by the Judicial Branch, appointed by the Chief Justice.

- (1) All positions on the JBGB shall be for a term of two years or until replacements are named. Incumbents shall be eligible for reappointment or reelection.
- (2) If the appointed judge is from the same judicial district as either the employee representative or the grievant, or the appointed judge is unable to serve for any reason, the Chief Justice shall appoint another judge from another judicial district to serve until that grievance has reached disposition.
- (3) If the employee representative is from the same judicial district as either the appointed judge or the grievant, or the employee representative is unable to serve for any reason, the alternate shall fill that position on the board until that grievance has reached disposition.
- (4) If the appointed non-Judicial Branch individual is unable to serve for any reason, the Chief Justice shall appoint another representative until that grievance has reached disposition.

(F) Hearing Procedures. The appointed judge shall be the chairperson. The chairperson shall preside at every grievance hearing. No hearing shall be held without all three members present. They shall be the judge, the employee representative (or alternate), and the non-Judicial Branch individual.

- (1) The proceedings shall be recorded.
- (2) The board chairperson shall conduct the hearing and afford the parties opportunity to introduce evidence. Evidence shall include taking testimony from witnesses and cross-examination of witnesses. Testimony shall be under oath or affirmation.
- (3) Rules of evidence shall not be strictly applied. However, irrelevant or repetitious evidence may be excluded. Reliable hearsay is permitted.
- (4) The grievant shall have the burden of going forward to show jurisdiction and a factual basis for review. If the chairperson decides that the grievant has met this burden, he or she shall so rule, and the burden shall then shift to the respondent to show that the action(s) taken were consistent with the JBPR.
- (5) Upon hearing the evidence and statements of the parties and after careful consideration, the board by majority vote shall render a written decision within ten (10) working days and send the written decision to the Chief Justice. The decision, which shall be based upon the greater weight of the evidence, shall contain findings and either order dismissal of the grievance or remedial action which shall be limited to reinstatement, back pay with benefits, and/or expungement of the disciplinary action. The Chief Justice, pursuant to 7 N.N.C. § 371, shall automatically review the board decision for legal and factual sufficiency and sustain or overrule the board decision or remand the decision back to the JBGB for further action.
- (6) After final review by the Chief Justice, the written decision shall be distributed to the JBGB, parties, and their representatives, and the Director of Judicial Administration.

**Rule 61: Judicial Branch Grievance Board  
Rules and Procedures**

- (A) The Judicial Branch Grievance Board (JBGB) will implement the following procedures in all cases:
- (1) The JBGB will hear all grievance complaints presented to the board.
  - (2) Grievance hearings will be conducted at the location of the grievant, unless the grievant requests otherwise.
  - (3) No hearing will be held without the presence of the full board.
  - (4) All three board members shall participate in full aspects of the decision-making process.
  - (5) Failure of the grievant to proceed with his or her grievance after filing with the JBGB shall be deemed as withdrawal of the grievance.
- (B) Board Rules.
- (1) The chairperson or designated board member will assign a number to each new grievance case.
  - (2) The chairperson or designated board member will mail hearing notices with the time, date, and location of the grievance hearing to all board members.
  - (3) The chairperson or designated board member will make hearing arrangements, such as identifying space to hold the grievance hearing, recording equipment, board accommodations, etc.
  - (4) All board members shall be present at hearings by 9:50 a.m. for roll call.
  - (5) Hearings shall begin promptly at 10:00 a.m. and continue through the afternoon, if necessary.
    - (a) The JBGB shall wait until 10:15 a.m. for grievant to appear. If the grievant is not present by 10:15 a.m., the complaint may be dismissed for lateness. Dismissal may be reconsidered for hearing if the grievant gives justifiable reason(s) for late appearance. Granting of request to proceed with hearing is at the discretion of the chairperson.
    - (b) The complaint may also be dismissed for non-appearance of the grievant. Such dismissal may be reconsidered for hearing if grievant presents, in writing, justifiable reason(s) for non-appearance and requests rescheduling of hearing. Granting of a request for rescheduling of hearing is at the discretion of the chairperson. The chairperson shall grant the request for rescheduling of hearing only if there are justifiable circumstances causing non-appearance.
  - (6) The chairperson shall open the hearing.
  - (7) The hearing shall proceed as follows:
    - (a) Roll call of board members or alternates.
    - (b) Introduction of all parties (grievant, counsel, witnesses, etc.)
    - (c) Brief statement of grievance case by board chairperson.
    - (d) Administration of oath to all who will testify and present evidence.
    - (e) Statements of issues by both parties or counsels.
    - (f) Exclusion of witnesses upon request.
    - (g) Presentation of case by the grievant with direct and cross-examination:

1. Calling first witness (and subsequent witnesses, if any);
  2. Direct examination;
  3. Cross examination;
  4. Redirect;
  5. Closing statement.
- (h) Presentation of respondent's case with direct and cross-examination:
1. Calling first witness (and subsequent witnesses, if any);
  2. Direct examination;
  3. Cross examination;
  4. Redirect;
  5. Closing statement.
- (8) The JBGB will go into executive session for a decision.
- (9) The JBGB will reopen the hearing to announce its decision to grievant, counsels, respondents, and the Judicial Branch.
- (10) Close grievance proceedings.
- (C) Either party may request reconsideration of the board's decision within fifteen (15) working days after receipt of the JBGB's decision by filing a written request and written arguments supporting the request.
- (1) The requesting party shall send the original documents to the JBGB chairperson and send copies to the rest of the board members and opposing party.
  - (2) The opposing party shall have ten (10) working days after receipt of reconsideration request to file written arguments in response. The responding party shall send the original documents to the chairperson and send copies to the rest of the board members and requesting party.
- (D) The JBGB will meet within thirty (30) working days after receipt of all documents to consider written arguments. No new evidence shall be admitted.
- (E) The written decision of the JBGB shall be mailed to all parties within ten (10) working days
- (F) The chairperson shall maintain grievance files for a duration of five (5) years from date the JBGB issues a written decision on a case.

Navajo Nation  
Division of Economic Development  
Post Office Box 663  
Window Rock, AZ 86515



EXHIBIT C  
Business Regulatory Dept  
(928) 871-7365  
871-6714  
Fax: (928) 871-7381

## NAVAJO NATION UNIFORM COMMERCIAL CODE

### FILING FEE SCHEDULE

Fee Schedule - to partially offset the expense of administering the Navajo Uniform Commercial Code. All documents filed by individual entities under this Code shall be accompanied by a fee schedule to process and maintain certain records according to the following schedule:

UCC Form #1 .....	\$ 4.00
UCC Form #1 w/Assignee .....	\$ 5.00
UCC Form #2 .....	\$ 4.50
UCC Form #2 w/Assignee .....	\$ 5.50
(Amendments, Extensions, etc.)	
UCC Form #3 .....	\$ 5.00
(Terminations)	
Security Agreement .....	\$ 7.00
Security Agreement .....	\$ 7.00 plus
(If more than 5 pages) .....	\$ .50 per/page
Security Agreement, Amendments .....	\$ .50 per/page
Search Fee .....	\$ .50 per/pg.

All fees listed above will be non-refundable. Money Orders ONLY, no personal checks and make payable to Navajo Nation, Business Regulatory Department.



**LEUPP CHAPTER  
FUND APPROVAL FORM**DATE: \_\_\_\_\_ 2010-\_\_\_\_\_

AMOUNT OF CHECK \$ \_\_\_\_\_

CHECK NUMBER: \_\_\_\_\_

CHECK DATE: \_\_\_\_\_

PAYABLE TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INVOICE OR REFERENCE NUMBER: \_\_\_\_\_

PURPOSE OF PAYMENT: \_\_\_\_\_

ACCOUNT NUMBER: \_\_\_\_\_

AMOUNT: \$ \_\_\_\_\_

SUB ACCOUNT: \_\_\_\_\_

AVAILABILITY OF FUNDS \_\_\_\_\_ Yes \_\_\_\_\_ No

BUDGETED ITEM \_\_\_\_\_ Yes \_\_\_\_\_ No

COMMUNITY APPROVAL \_\_\_\_\_ Yes \_\_\_\_\_ No

CONDITION OF APPROPRIATION \_\_\_\_\_ Yes \_\_\_\_\_ No

Requested By: \_\_\_\_\_

Date: \_\_\_\_\_

Administrative Assistant

Approved By: \_\_\_\_\_

Date: \_\_\_\_\_

Community Service Coordinator

Concurred By: \_\_\_\_\_

Date: \_\_\_\_\_

Chapter President

OR

\_\_\_\_\_  
Secretary/Treasurer



**EXHIBIT F**

P.O. No.

Date \_\_\_\_\_

**VENDOR**

SHIP TO:

**TOTAL**

**NOTE:**

**Please sign and return the acknowledgement copy of this order to the Purchase Department.**

## Chapter Manager

Date \_\_\_\_\_

NAVAJO NATION-WESTERN NAVAJO AGENCY

**LEUPP CHAPTER**

Requisition Form

EXHIBIT G

DATE: \_\_\_\_\_

Requisition Number: \_\_\_\_\_

The Leupp Chapter hereby authorizes the Leupp Chapter Secretary/Treasurer to expend the sum of \$ \_\_\_\_\_ from Wells Fargo Bank Account: 6371701356 for the following purpose.

PLEASE NOTE: (1) Attached price quotations from suggested vendors.

TOTAL COST: \$ \_\_\_\_\_

JUSTIFICATION: \_\_\_\_\_

ACCOUNT NUMBER: \_\_\_\_\_

VENDOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C\*E\*R\*T\*I\*F\*I\*C\*A\*T\*I\*O\*N**

We hereby certify that the foregoing resolution was duly considered by the Leupp Chapter of the Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of \_\_\_\_ in favor, \_\_\_\_ opposed, and \_\_\_\_ abstentions on this \_\_\_\_ Day of \_\_\_\_\_, 2010.

Motion: \_\_\_\_\_

Second: \_\_\_\_\_

\_\_\_\_\_  
Chapter President

\_\_\_\_\_  
Chapter Vice President

\_\_\_\_\_  
Secretary/Treasurer

\*\*\*\*\*  
VOUCHER AMOUNT: \_\_\_\_\_

VOUCHER NUMBER: \_\_\_\_\_

DATE ISSUED: \_\_\_\_\_



**EXHIBIT H**

P.O. No. \_\_\_\_\_  
Date \_\_\_\_\_

**VENDOR**

SHIP TO:

**TOTAL**

## Chapter Manager

Date \_\_\_\_\_



### Request For Quotation

**EXHIBIT I**

Telephone: (       ) \_\_\_\_\_

Fax: (     ) \_\_\_\_\_

[illegible]

Requested By:

Signature:

Date: \_\_\_\_\_

- ☐ Return quote by fax to (928) 686~3232

- ☐ Return quote by mail

- ☐ Receive by phone: Name: \_\_\_\_\_ Phone: (928) \_\_\_\_\_

\*\* Prices good for: ☐ 10 days ☐ 30 days \*\*

## **LEUPP CHAPTER EMERGENCY OPERATIONS PLANS AND PROCEDURES**

### **I. INTRODUCTION**

The Leupp Chapter community has established a temporary Emergency Operation Center (EOC) using the physical structure of the Leupp chapter house. The current floor plan and chapter official business operation will be converted to an emergency operation. This activation will be initiated in accordance with the Standard Operating Procedure (SOP), which has been established by ALERT.

The local ALERT representatives have prepared preliminary plans for an emergency response for Leupp area, however, this EOC will eventually become the coordinating central command post for the southwest region covering the 9 chapters.

### **II. COMMUNICATION**

Upon an official EOC activation, ALERT has 30 minutes to convert the chapter house into an Emergency Operation Center.

A console telephone with 4 extensions will be installed in office #1. The phone operator will establish extensions for local chapter business calls and 3-extensions will be monitored for all incoming emergency calls (information) in office #2. In-coming information will be placed in priority 1,2,3,4, and refer to the decision making room in office #3. Decision makers will consist of the following:

- (1) chapter officials, ALERT Chair and
- (2) professional personnel such as (Police, fire, etc.)

Office #4 will coordinate all human resources according to specialty and professions, along with available equipment. The Coordinator will set up teams to respond to emergency sites and rotate depending on amount of resources.

### **III. COORDINATION**

Each team prepared for dispatch will have briefings of incidents and the situation before transport to site. The team returning from the site will be debriefed on the following; assessment of the situation and the plan of action for the next team being dispatched.

The local fire department will provide for an assembly, which will consist of checking all equipment of the volunteers and other assistants. They will provide shelters for sleeping and camping.

### **IV. NOTIFICATION**

The Navajo Department of Emergency Management Services and Public Safety will generally notify the EOC of any major emergency within Navajo Nation.

# BID TABULATION FORM

EXHIBIT K

PROJECT NAME: \_\_\_\_\_

DATE OF BID OPENING: \_\_\_\_\_

LOCATION OF MTG.: \_\_\_\_\_

TIME OF BID OPENING: \_\_\_\_\_

CONTRACTOR	5 % BID BOND	NAVAJO PREFERENCE	SUBCONTACTOR LIST	CONTRACTOR LICENSE	FORM OF NON-COLLUSIVE AFFIDAVIT	CERTIFICATION OF BIDDER CONTRACTING NAVAJO SUBCONTACTORS	BASE BID	TOTAL CALENDAR DAYS	ADDENDUM NO. 1	ADDENDUM NO. 2	ADDENDUM NO. 3	REMARKS
	NON-RESPONSIVE											
	NON-RESPONSIVE											
	NON-RESPONSIVE											

This is to certify that all bids were received sealed, opened in my presence and read aloud: \_\_\_\_\_

The Architect recommends award to : \_\_\_\_\_ Signed: \_\_\_\_\_



**LEUPP CHAIRER  
BID EVALUATION FORM**

EXHIBIT L

	CONTRACTORS				
	BASE BID AMOUNT				
1	Soil & Quality Control Allowance				
2	Site Preparation				
3	Building Construction Cost				
4	Handicap Ramps, Concrete Aprons & Stoops				
5	Site Utilities				
6	4% Business Activity Tax				
7	Bonding				
8	General Conditions/Profits				
9	CONTRACTOR OPTN NEGOTIATE: ADDED				
10	FOR BOND'G COST				
11	SUBTOTAL				

**LEUPP CHAPTER**

**PROPERTY**

**MANAGEMENT**

**POLICIES**

**AND**

**PROCEDURES**

**LEUPP CHAPTER  
PROPERTY POLICIES & PROCEDURES MANUAL  
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**LEUPP CHAPTER**  
**PROPERTY MANAGEMENT POLICIES AND PROCEDURES MANUAL**

**I. AUTHORIZATION**

- A. Pursuant to 26 N.N.C. § 101 (A), the *Leupp Chapter* hereafter referred to as *Leupp Chapter* is required to formulate, implement and operate under a Five Management System to ensure accountability. Accordingly, The *Leupp Chapter* has developed policies and procedures for the Five Management Systems consistent with applicable Navajo Nation Law.
- B. Pursuant to *Leupp Chapter* Resolution No. LP08-106-2010, the Property Management Policies and Procedures Manual (hereafter "Property Manual") is hereby approved.

**II. PURPOSE AND SCOPE OF POLICY**

- A. These policies sets forth the authority, principles and policies governing the accounting for all *Leupp Chapter* property in terms of dollar value, units and their location(s); and prescribes the *Leupp Chapter* administrative functions and *Leupp Chapter* officials' policy-making functions within the *Leupp Chapter*. These policies also provide the basis for the implementation of the general supervision over procedures necessary to organize and protect all *Leupp Chapter* assets, through the maintenance of records and performance of inventories, thereby ensuring the provision of adequate and economical warehousing, receipt and delivery of *Leupp Chapter* property.
- B. This Property Manual is applicable to all employees and members of the *Leupp Chapter*, including *Leupp Chapter* officials, who shall monitor property management to ensure that property records are maintained and that this policy is enforced.
- C. This Property Manual shall apply to all employees and members of the *Leupp Chapter*, including *Leupp Chapter* officials, who shall ensure that all handling of *Leupp Chapter* property is done accordance with the principles detailed in the manual.
- D. These policies and procedures are intended to provide adequate and accurate information for *Leupp Chapter* reporting activities, help justify how resources are utilized, serve as an important internal control measure, help document important decisions, and provide a history of the operation and maintenance of *Leupp Chapter* property.
- E. These policies and procedures shall ensure that all activities are supported with proper and accurate documentations, serve as an efficient and effective tool to minimize duplication of property acquisition, and provide adequate safeguards for *Leupp Chapter* property.

**III. APPLICABLE LAWS**

The *Leupp Chapter* shall comply with all applicable State, Federal and Navajo Nation law.



#### IV. GENERAL STATEMENT OF POLICIES

- A. The *Leupp Chapter* staff and *Leupp Chapter* Officials shall be charged with responsibility to ensure accurate inventory control and safekeeping of all *Leupp Chapter* property. In the event of loss, the *Leupp Chapter* staff and *Leupp Chapter* Officials shall be prepared to show the precautionary actions taken to guard against loss, damage, theft, etc. The *Leupp Chapter* shall maintain adequate insurance coverage. Liability insurance coverage shall be mandatory, where required by law. All *Leupp Chapter* property is for *Leupp Chapter* business only.
- B. An individual will not be assigned to a duty that will separate him from property for which he is responsible. Individuals may be required to assume accountability for property remotely located. In such instances, they are required to maintain records which will show at all times the general location of such property and the individuals responsible for its care and safekeeping.
- C. The sale, gift, loan or exchange or other disposition of any *Leupp Chapter* property not specifically authorized by applicable Navajo Nation law, the *Leupp Chapter's* Five Management System or other directives issued by the *Leupp Chapter* is illegal.
- D. Any person who, without authority, sells or otherwise disposes (via loan, exchange, or gift) of *Leupp Chapter* property or through neglect allows *Leupp Chapter* property to be lost, or damaged, destroyed, sold or wrongly disposed of, may be lawfully punished pursuant to Navajo Nation law.
- E. All *Leupp Chapter* property shall be identified by marking and/or tagging unless such marking would impair the utility of the item.
- F. The *Leupp Chapter* property records will include serial numbers, quantity, condition and insurance for proper identification of items and to ensure proper reporting of any losses.
- G. All *Leupp Chapter* property shall be kept on the *Leupp Chapter* premises, except where it has been approved for other locations by the *Leupp Chapter* Manager.
- H. All property discovered upon annual inventory (tagged or not) shall be accounted for and recorded as *Leupp Chapter* property. It shall be the duty of the *Leupp Chapter* Manager to report the existence or discovery of property as indicated to safeguard and secure such property until any legally responsible individual or proper authority assumes possession of said property.
- I. No rewards, favors, gifts or other form of remuneration shall be received from any vendors, contractors, individual or firm, or any other sources having relations with the *Leupp Chapter*.
- J. All property and equipment of a value of more than \$1,000 shall be capitalized and recorded in the *Leupp Chapter's* Capital Asset ledger.

- K. All non-Capital expenditures shall be included in a *Leupp Chapter*-approved budget and recorded as an expense in the year of their purchase. At year-end, the capitalized asset shall be transferred to the Capital Assets Account Group ledger.
- L. All individuals shall comply with the Procurement Policies and Procedures Manual for any and all acquisitions of property.

## V. GENERAL DUTIES AND RESPONSIBILITIES

### A. *Leupp Chapter* Administrative Responsibilities:

The *Leupp Chapter* administrative staff shall follow the duties and responsibilities prescribed in their Property Manual or other applicable policies and plans of operation and shall comply with all administrative policies and procedures enacted by the *Leupp Chapter*, in accordance with applicable law.

#### 1. The *Leupp Chapter* Manager shall:

- a. Be entrusted and accountable for all *Leupp Chapter* property and shall be the designated property custodian.
- b. Co-sign all checks for payment to vendors, along with the *Leupp Chapter* Secretary/Treasurer, and the *Leupp Chapter* President if the *Leupp Chapter* Secretary/Treasurer is not available.
- c. Verify all purchase requisitions to assure purchase costs are reasonable, that materials are suitable, and that the quantity and intended use of any property purchased by the *Leupp Chapter* is in the best interest of the *Leupp Chapter*.
- d. Keep both general and subsidiary ledgers for all Capital Assets owned, and which should permit a reconciliation of the detailed subsidiary ledger account amounts with the summary amounts and other accounts in the general ledger.
- e. Reconcile the *Leupp Chapter* inventory list maintained by the *Leupp Chapter* Administrative Assistant on an annual basis, and the re-sale inventory on a monthly basis.
- f. Have the discretion of maintaining a separate inventory for assets not meeting the capitalization requirements, which will be expensed when purchased.
- g. Acquire *Leupp Chapter* property on an installment plan, with the approval of the *Leupp Chapter* membership.
- h. Be responsible for assuring rental equipment is used for its approved purpose and that the *Leupp Chapter* approved rental fees are enforced.

#### 2. The *Leupp Chapter* Administrative Assistant shall:

- a. Prepare the paperwork necessary for the acquisition of property and equipment including:
  - (1). Obtain advance approval from the *Leupp Chapter* Manager and *Leupp Chapter* officials for transactions regarding *Leupp Chapter* property.
  - (2). Prepare purchase requisitions, issue purchase orders, conduct inspections of equipment purchased, verify complete orders per invoices, receive reports and process payments.
- b. Conduct a physical inventory count for property and equipment on an annual basis, and for resale inventory, a physical inventory on a monthly basis.

B. *Leupp Chapter* Official oversight responsibility:

1. The *Leupp Chapter* President shall:
  - a. Work closely with the *Leupp Chapter* Vice-President and *Leupp Chapter* Secretary/Treasurer, to ensure that the *Leupp Chapter* administration is adequately meeting the *Leupp Chapter's* directives and expending funds according to conditions of the Budget Instructions Manual and/or the *Leupp Chapter's* annual budgetary objectives on a quarterly basis, and will report to the *Leupp Chapter* membership.
  - b. In the absence of the *Leupp Chapter* Secretary/Treasurer, may co-sign *Leupp Chapter* checks with a justification memorandum.
  - c. Sign all contracts, resolutions and other documents on behalf of the *Leupp Chapter* after approval by the *Leupp Chapter* membership.
  - d. Monitor and review property management and activities of the *Leupp Chapter* administration on a quarterly basis.
  - e. Help resolve any discrepancies, irregularities or illegalities in the property control process.
2. The *Leupp Chapter* Vice-President shall:
  - a. In the event of an unforeseen situation, assume delegated duties and responsibilities of the *Leupp Chapter* President for a reasonable time period, or until the *Leupp Chapter* President is available.
  - b. Assist in the review of the *Leupp Chapter* Property control process on a quarterly basis.
3. The *Leupp Chapter* Secretary/Treasurer shall:
  - a. Monitor the maintenance of an accounting system to ensure accountability of all funds and expenditures, and shall report all

financial activities to the *Leupp Chapter* President and *Leupp Chapter* membership on a monthly basis.

- b. Ensure that the *Leupp Chapter* administration prepares monthly financial reports of all transactions and expenditures of the *Leupp Chapter* by categories.
- c. Co-sign *Leupp Chapter* checks along with the *Leupp Chapter* Manager.
- d. Monitor and review the *Leupp Chapter's* property control records on a monthly basis.
- e. Work towards resolving any discrepancies, irregularities, or illegalities in the property control process.

## **VI. PROPERTY ACQUISITION**

### **A. Policy:**

The *Leupp Chapter* may acquire personal and real property through purchase, donation, transfer, or abandoned property found within the *Leupp Chapter's* premises or jurisdiction.

### **B. All property purchases shall follow the *Leupp Chapter's* Procurement Policies and Procedures Manual where applicable.**

### **C. Procedures:**

The following procedures will apply for all property acquisitions:

#### **1. Property:**

##### **a. Procedures:**

- (1). The *Leupp Chapter* Manager may acquire or purchase property and equipment through use of cash and/or credit, or on an installment/lease plan, with the approval of *Leupp Chapter* Officials and *Leupp Chapter* membership.
- (2). The *Leupp Chapter* Administrative Assistant shall prepare all the necessary documents (Refer to Procurement Policy and Procedures) to initiate the purchase of property and equipment.
- (3). The *Leupp Chapter* Manager and *Leupp Chapter* President shall sign property acquisition documents on behalf of the *Leupp Chapter* upon approval of the *Leupp Chapter* membership.
- (4). The *Leupp Chapter* Administrative Assistant shall obtain advanced approval by the *Leupp Chapter* Manager, prepare the fund approval form and purchase requisition, issue any purchase order(s), inspect goods, complete the receiving



report, maintain a complete property identification sheet, and process payments.

- (5). The *Leupp Chapter* Manager shall review all documents for completeness and co-sign the check for payment, along with the *Leupp Chapter* Secretary/Treasurer.
- (6). When a service, maintenance, or purchase agreement is set up with a vendor, installment payments may be made. The *Leupp Chapter* Administrative Assistant shall prepare and process a Fund Approval Form (FAF) in accordance with the Procurement Policies and Procedures, Section VII (C). Subsequent payments will be made in the same manner.
- (7). Upon acquisition of any property, the *Leupp Chapter* Manager shall immediately update the property records/inventory to reflect the acquisition.
- (8). Upon acceptance, the *Leupp Chapter* Administrative Assistant shall tag and record the property in the appropriate general and subsidiary ledgers along with all Capital Assets owned.

2. Acceptance of donation or gifts:

a. Policy:

All donations of items or gifts of property and equipment shall be addressed in writing to the *Leupp Chapter* Manager and/or the *Leupp Chapter* President.

b. Procedures:

It shall be the responsibility of the *Leupp Chapter* Manager to accept or reject the donated property or equipment offered to the *Leupp Chapter*.

- (1). The *Leupp Chapter* Manager shall assess the proposed offer or donation, and advise and consult with the *Leupp Chapter* Officials concerning the costs or benefits of accepting the proposed offer or donation.
- (2). Upon acceptance, the *Leupp Chapter* Manager shall estimate the value of the donated property or equipment based on fair market value at the time of the donation.
- (3). Upon acceptance, the *Leupp Chapter* Administrative Assistant shall tag and record the property in the appropriate general and subsidiary ledgers along with all Capital Assets owned.

3. Abandoned or found property:

- a. Policy:  
It shall be the policy of the *Leupp Chapter* that any and all property found and/or abandoned shall become the property of the *Leupp Chapter*, at the discretion of the *Leupp Chapter* Manager in consultation with the *Leupp Chapter* Officials.
- b. Procedures:
  - (1). The *Leupp Chapter* Administrative Assistant shall inform the *Leupp Chapter* Manager and *Leupp Chapter* Officials about the found property immediately, and if the owner can be identified, request that the owner claim the property within thirty (30) calendar days.
  - (2). The *Leupp Chapter* Manager, in consultation with the *Leupp Chapter* Officials, shall determine whether the property or equipment found or abandoned within the boundaries and jurisdiction of the *Leupp Chapter* shall become the property of the *Leupp Chapter* in the event there is no claim.
  - (3). Upon acquisition of any abandoned or found property, the *Leupp Chapter* Manager shall estimate the value of said property based on its fair market value at the time of discovery.
  - (4). If the property or equipment is unacceptable as *Leupp Chapter* property, the property will be turned over to the local police department or otherwise disposed of by the *Leupp Chapter*.
  - (5). The *Leupp Chapter* Administrative Assistant shall tag and record the property in the appropriate general and subsidiary ledgers along with all Capital Assets owned.

4. Property and/or Equipment Transfer:

- a. Policies:
  - 1. A suggestion for transfer of property and equipment to the *Leupp Chapter* shall be addressed in writing to the *Leupp Chapter*.
  - 2. The *Leupp Chapter* Manager shall be responsible for the acceptance or rejection of the transferred property or equipment offered to the *Leupp Chapter*.
- b. Procedures:
  - 1. The *Leupp Chapter* Manager shall assess the proposed transfer and consult with the *Leupp Chapter* Officials concerning the costs or benefits of accepting or rejecting the transfer of property or equipment.

2. The *Leupp Chapter* Manager shall estimate the value of the transferred property or equipment based on its fair market value at the time the transfer is proposed and accepted.
3. If accepted and transferred, the *Leupp Chapter* Administrative Assistant shall tag and record the transferred property or equipment in the appropriate general and subsidiary ledgers including the Capital assets.

## **VII. PROPERTY IDENTIFICATION, CLASSIFICATION AND RECORDS**

### **A. Policy:**

The *Leupp Chapter* shall maintain a complete, detailed and accurate identification of all *Leupp Chapter* properties at all times. The *Leupp Chapter* Physical Equipment Inventory form shall be reconciled annually or upon a change of the *Leupp Chapter* Manager within the *Leupp Chapter* administration.

1. All updates or reviews shall take place upon the hiring, new elected terms, resignation, or termination of the *Leupp Chapter* Manager, *Leupp Chapter* Officials or *Leupp Chapter* Administration to account for all property and equipment.
2. All properties of the *Leupp Chapter* shall be identified, classified and recorded on the *Leupp Chapter* Physical Equipment Inventory form.
3. All properties of the *Leupp Chapter* shall be tagged with the *Leupp Chapter's* property number.

### **B. Procedures:**

The following procedures shall ensure all property is identified, classified and recorded in the *Leupp Chapter* Physical Inventory form.

1. The *Leupp Chapter* Administrative Assistant shall be responsible for classifying all *Leupp Chapter* property into the following categories:
  - a. Expendable
    - (1). Supplies
    - (2). Materials
  - b. Non-expendable (Capitalized, value of more than \$500):
    - (1). Tool
    - (2). Furniture
    - (3). Equipment
  - c. Property (Capital Asset, value at \$5,000 or more):
    - (1). Tools
    - (2). Furniture
    - (3). Equipment
  - d. Real property (Capital Assets, value at \$5,000 or more):
    - (1). Improvement

(2). Building

(3). Land

2. The *Leupp Chapter* Administrative Assistant shall record the proper classification of *Leupp Chapter* property on the Capital Asset Inventory sheet which shall contain the following information:

a. Property numbers	g. Condition	m. Fund Source
b. Description	h. Last inventory	n. Date of disposition
c. Classification	i. Date acquired	o. Method of disposition
d. Serial number	j. Procurement documents	p. Amount of proceed
e. Acquisition cost	k. Invoice number	q. Account credited
f. Value	l. Vendor	r. Disposition posted by

3. The *Leupp Chapter* Administrative Assistant shall assure that the property identification, availability, and location of Capital Assets are recorded on the Capital Assets Inventory Sheet, and filed securely in a locked safe.

4. If the date of purchase or purchase price is unknown, the beginning fiscal year date shall be utilized, with a specific notation regarding the substituted date. If the date of purchase price is unknown, it will be estimated at the current fair market value. Also the value of donated equipment shall be estimated based on fair market value at the time of acquisition and the total value of all listed property and equipment shall be recorded in the Capital Asset account.

5. The *Leupp Chapter* Manager shall record in the *Leupp Chapter's* accounting records and financial report statements on the *Leupp Chapter's* Capital Assets in accordance with the following example:

a. The General Ledger – Capital Assets

DATE	ITEM	REF	DEBIT	CREDIT	BALANCE
12/1	Beg. Bal.				35,000
12/31	Machinery & Equipment	GF	45,000		
12/31	Office Equipment	GF	20,000		100,000

Subsidiary Ledgers are detailed records and amounts of individual property items listed as Capital Assets (buildings, infrastructure or improvements other than buildings, machinery and equipment, and construction in progress). These ledgers permit for the reconciliation between the General Ledger and Subsidiary Ledgers. The following are examples of Capital Assets subsidiary ledgers.

b. Fixed Asset Subsidiary Ledger-Machinery & Equipment:

DATE	ITEM	REF.	DEBIT	CREDIT	BALANCE
12/1	Beg. Bal.				25,000
12/31	GMC TRUCK	GF	10,000		35,000
12/31	CHEVY TRUCK	GF	10,000		45,000

c. Fixed Asset Subsidiary Ledger-Office Equipment:



DATE	ITEM	REF.	DEBIT	CREDIT	BALANCE
12/1	Beg. Bal.				10,000
12/31	IBM COMPUTER	GF	5,000		15,000
12/31	CONF. RM TABLE	GF	5,000		20,500

d. Fixed Capital Asset Inventory form:

Tik Property #	NN Property #	Serial #	Desc.	Cond.	Date of Purc	Purchase Price	Date of Depo	Value	Salv. value	Location

The Capital Asset Inventory form is an accounting record which displays a summary of all capitalized property. Generally, this information is obtained from the *Leupp Chapter's* Physical Equipment Inventory Form.

## VIII. INVENTORY OF PROPERTY

A. Policy:

The *Leupp Chapter* shall conduct and maintain a complete, detailed and accurate physical inventory of the *Leupp Chapter* property assigned and shall reconcile the entire property list annually, or upon a change of the *Leupp Chapter* Manager within the *Leupp Chapter* Administration.

1. An update and review shall be completed upon the hiring, new elected term, resignation, or termination of the *Leupp Chapter* Administration and *Leupp Chapter* Officials.

B. Procedures:

1. The *Leupp Chapter* Manager shall conduct the physical inventory that will involve an actual observation and identification of each piece of property using the *Leupp Chapter* Physical Inventory Form. A property condition check is a part of the inventory count and shall be recorded on the *Leupp Chapter* Physical Equipment Inventory form.
2. The *Leupp Chapter* Administrative Assistant shall ensure that all pertinent records and documentation of all *Leupp Chapter* property are kept on file including invoices, warranties and titles.
3. At the beginning of each fiscal year the *Leupp Chapter* Manager shall provide a copy of the most current inventory listing to the Navajo Nation Risk Management Department, or whenever there is any new acquisition or disposition of any property covered by the Risk Management Department, including any equipment, vehicles, etc., and any real property such as land, buildings and improvements.

4. The *Leupp Chapter Manager* shall consult with the Navajo Nation Risk Management Department annually as part of the budget process, to determine insurance costs and available appropriations, and to ensure that the *Leupp Chapter's* entire inventory is properly insured at all times and that property identification requirements are sufficient to meet replacement requirements.
5. The *Leupp Chapter Manager* shall reconcile and adjust the inventory count and listing for accuracy and completeness on an annual basis or at the time of acquisition or disposition.

## **IX. LOST, STOLEN OR DAMAGED PROPERTY**

### **A. Policy:**

Pertinent records and documentation of all *Leupp Chapter* property shall be kept on file including invoices, warranties and titles to ensure protection against property lost, stolen or damaged.

1. To prevent loss, theft or damage of any *Leupp Chapter* property, all property shall be secured in its proper place at all times.

### **B. Procedures:**

1. The *Leupp Chapter* Administrative Assistant shall check all locations to ensure the asset has not been misplaced, loss, stolen or damage.
2. The *Leupp Chapter Manager* or *Leupp Chapter* Administrative Assistant shall immediately notify law enforcement and obtain a written police report on the missing, stolen or vandalized asset.
3. The *Leupp Chapter Manager* shall immediately notify the *Leupp Chapter* officials of the incident.
4. The *Leupp Chapter Manager* shall submit a memorandum and a copy of the police report along with all essential information regarding the property to  
  
the Navajo Nation Risk Management Department, Window Rock, Arizona.
5. The *Leupp Chapter* Administrative Assistant shall compile all information from the latest physical inventory for the purpose of providing an estimate of the cost of the items(s) that were stolen, vandalized or damaged, to Risk Management Department for possible repairs or replacement.
6. The *Leupp Chapter Manager* shall take possession of damaged and/or recovered property from the *Leupp Chapter* and obtain any requisite cost estimate of (a) repair cost or (b) replacement cost. The *Leupp Chapter Manager* shall determine, based upon the estimated repair or replacement cost, the reasonableness to replace the damaged or recovered property.

7. The *Leupp Chapter* Manager shall review insurance records to ensure adequate insurance coverage for a new Capital Asset as acquired.
8. Any *Leupp Chapter* property that is stolen or damaged shall be treated in the same manner as outlined in Procedures #1 - 7, above, if the *Leupp Chapter* Manager determines the item to be of significant value.

## **X. PROPERTY MAINTENANCE AND STORAGE**

### **A. Policy:**

All property and equipment shall have a preventive maintenance/repair schedule and guidelines for the use of the property. The *Leupp Chapter* Manager shall be responsible for the development and implementation of this policy and for maintaining property on *Leupp Chapter* premises *unless* temporarily relocated for repair or rental:

### **B. Procedures:**

#### **1. Maintenance of Facilities:**

- a. Routine Maintenance: The *Leupp Chapter* Manager shall provide a maintenance and repair schedule for all *Leupp Chapter* facilities including, but not limited to, the *Leupp Chapter* Administrative Offices, Head Start building, Senior Citizen Center, warehouse, and any other building or structure within the acreage legally set aside for *Leupp Chapter* government operation.
- b. The *Leupp Chapter* shall be liable and responsible for the maintenance and repairs of all *Leupp Chapter* owned facilities, unless there is a separate maintenance agreement for said *Leupp Chapter* owned facility with a Navajo Nation government program or a county, state or federal entity.
- c. The *Leupp Chapter* Manager shall ensure the provision of routine maintenance as a preventive measure against damage and wear.

#### **2. Maintenance of Equipment:**

##### **a. Preventive Maintenance**

- (1) The *Leupp Chapter* Administrative Assistant shall schedule and requisition for servicing of all equipment including, but not limited to, any computers, the photocopy machine, printer, fax machine, and vehicles.
- (2) All *Leupp Chapter* office equipment shall have a monthly preventive maintenance schedule. If the product is on lease to the *Leupp Chapter*, any agreement with the lessor shall provide that the lessor supply the routine maintenance.
- (3) The *Leupp Chapter* Manager shall monthly inspect all equipment for proper maintenance and compliance with the maintenance schedule.

- (4) The *Leupp Chapter* Manager shall ensure for reasonable security to safeguard *Leupp Chapter* property.
- (5) The *Leupp Chapter* Administrative Assistant shall date and log all maintenance performed on the Monthly Inspection and Maintenance form.

b. Repairs:

- (1) The *Leupp Chapter* Administrative Assistant shall be responsible for the scheduling and requisitioning of routine repairs of equipment in accordance with the *Leupp Chapter's* Procurement Policies and Procedures.
- (2) The *Leupp Chapter* Manager shall be responsible for emergency repairs, in accordance with Section VI of the *Leupp Chapter* Procurement Policies and Procedures.
- (3) The *Leupp Chapter* Administrative Assistant shall date and log all repairs of any equipment.

## **XI. LOAN, RENTAL AND USE OF LEUPP CHAPTER PROPERTY**

A. Policy:

No *Leupp Chapter* property or equipment shall be loaned or rented without the approval of the *Leupp Chapter* Manager on a *Leupp Chapter* House Usage Form and after establishment of a standard rental fee for each type of *Leupp Chapter* property and equipment. The *Leupp Chapter* shall also require a deposit to cover cleaning, damage or loss of equipment and shall not be responsible for any liability or damages whatsoever caused by the Lessee's negligence or failure to comply with the applicable standard of care for any activities under the Lessee's control, or for the Lessee's failure to comply with any applicable *Leupp Chapter* policies or Navajo Nation law. Any liability of the *Leupp Chapter* or the Navajo Nation shall be strictly limited to those damages available under the Navajo Sovereign Immunity Act, 1 N.N.C. §§ 551 *et seq.*

B. Procedures:

1. The *Leupp Chapter* Manager shall be responsible for ensuring the equipment is used for its intended purpose and for enforcing the standard rental fees established by the *Leupp Chapter* Membership, based on recommendations from the *Leupp Chapter* Manager and elected *Leupp Chapter* officials.
2. The individual(s), group or organization of the *Leupp Chapter* must fill out an Equipment Rental Form at the *Leupp Chapter* Administration specifying which *Leupp Chapter* equipment the individual, group or organization wants to rent.
3. The *Leupp Chapter* Administrative Assistant shall be responsible for assisting and making sure all documents and information regarding the rental policies are transmitted and understood by the Lessee, including the



deposit that is required. The documents shall be forwarded to the *Leupp Chapter Manager*.

4. The *Leupp Chapter Manager* shall approve or disapprove the rental request based on the available documents.
5. If approved, the Lessee shall assume responsibility for the equipment and its intended use, and shall return the equipment at the specified time agreed on.
6. If the equipment is returned dirty or damaged, or is lost, the Lessee shall forfeit the deposit up to the cost for any cleaning, repair or replacement; otherwise, the deposit shall be returned to the Lessee upon return of the equipment.
7. The *Leupp Chapter Manager* shall be notified immediately if the equipment has been damaged and shall follow those procedures provide in Section X (B) of the Property Manual.
8. The *Leupp Chapter Manager* shall have the sole authority to approve any waiver of fees based on appropriate documentation and policies for fee waivers adopted by the *Leupp Chapter* membership.

C. Use of the *Leupp Chapter House*.

1. Policies:

- a. From time to time, *Leupp Chapter* and non-*Leupp Chapter* groups or organizations, or individuals,(the "Lessee") may wish to use the *Leupp Chapter House* facilities to conduct activities for charitable and non-charitable purposes. Such groups or organizations shall be required to obtain short-term liability insurance prior to utilizing the facility, which can be obtained from the Navajo Nation Risk Management Department.
- b. If an individual(s) or group request to utilize the kitchen facility to sell food or other items, either on behalf of the *Leupp Chapter* or privately, the *Leupp Chapter Manager* shall approve these requests on a *Leupp Chapter House Usage Form* (Exhibit "D"). No person shall handle food to be prepared for consumption by the public without a valid food handler's permit, a copy of which shall be filed with the *Leupp Chapter Administration*.
- c. The *Leupp Chapter* shall not assume any responsibility for loss or theft of any valuables of the Lessees or their Invitees, nor for any liability or damages whatsoever caused by the Lessee's negligence or failure to comply with the applicable standard of care for any activities under the Lessee's control, or for the Lessee's failure to comply with any applicable *Leupp Chapter* policies or Navajo Nation law. Any liability of the *Leupp Chapter* or the Navajo Nation shall be strictly limited to those damages available under the Navajo Sovereign Immunity Act, 1 N.N.C. §§ 551 *et seq.*

- d. The Lessee is responsible for making sure that all *Leupp Chapter* property remains on the premises and that the area is clean before leaving. It will be the Lessee's responsibility to pay for any damaged property, and if the *Leupp Chapter* House is not cleaned, the Lessee will forfeit the deposits and future utilization of the *Leupp Chapter* house facilities. The *Leupp Chapter* Manager shall be responsible for making that determination depending on the circumstances and damage done.
- e. The Lessees shall abide by the maximum number of occupancy established for the facility.
- f. The *Leupp Chapter* administration staff shall be authorized to establish rules and regulations pertaining to telephone calls, water hauling and other incidentals for the community members.
- g. The *Leupp Chapter* Manager shall be the sole authority to approve any waiver of fees, based on proper documentation and policies for waiver of fees established by the *Leupp Chapter* membership.
- h. The *Leupp Chapter* Manager and/or *Leupp Chapter* Officials shall reserve the right to refuse any individual(s) the usage of the *Leupp Chapter* facility if the individual(s) is behaving unprofessionally and using vulgar language or profanity.
- i. Facility usage for any political functions shall be subject to all applicable fees and deposits with no refunds.

2. Procedures:

- a. Potential Lessees shall contact the *Leupp Chapter* Administration at least ten (10) business days in advance in order to apply for *Leupp Chapter* house usage. The *Leupp Chapter* Administrative Assistant shall provide the *Leupp Chapter* facilities usage agreement form and explain the conditions and requirements.
- b. The *Leupp Chapter* Administrative Assistant shall prepare all documents and forward to the *Leupp Chapter* Manager for consideration.
- c. The *Leupp Chapter* Manager shall review all the documents for completeness and either approve or disapprove the request. If denied, the *Leupp Chapter* Manager shall provide justification for the denial upon request.
- d. The *Leupp Chapter* Manager shall return all documents to the *Leupp Chapter* Administrative Assistant who shall notify the potential Lessee.
- e. The *Leupp Chapter* Administrative Assistant shall record and file all documents into the appropriate ledgers and filing system.

- f. The Cash Receipt Control policy and procedures shall be applied for proper reporting and recording pursuant to Fiscal Section VII, (A) (2) of the *Leupp Chapter* Fiscal Policy and Procedures Manual.
- g. The *Leupp Chapter* Manager shall have the sole authority to approve any waivers of fees, based on appropriate documentation and policies established by the *Leupp Chapter* membership.

## **XII. PROPERTY AND EQUIPMENT INSURANCE**

### **A. Policies:**

Liability insurance coverage for injuries to third parties shall be mandatory on all *Leupp Chapter* property and equipment. Other coverage including collision, fire/smoke damage, theft/vandalism and workman's compensation shall also be included.

- 1. The *Leupp Chapter* shall participate in the Navajo Nation Insurance Services for its insurance coverage pursuant to 26 N.N.C. § 2003.
- 2. The *Leupp Chapter* shall use the insurance premium schedule to determine premium rates in accordance with the Navajo Nation Budget Instructions Manual.
- 3. All property and equipment insurance shall be reviewed periodically for adequacy and filed in a secure place.

## **XIII. PROPERTY DISPOSITION**

### **A. Policy:**

It shall be the policy of the *Leupp Chapter* to properly dispose of its property and equipment that will involve not only the physical disposition, but also the reconciliation of the accounting records to reflect such disposal. Capital Assets may be disposed of in a sale, retirement, or replacement transaction.

- 1. The *Leupp Chapter* Manager shall update property records to reflect disposal and to ensure that insurance policies are updated as appropriate.
- 2. The *Leupp Chapter* Manager in consultation with the *Leupp Chapter* Officials shall approve any disposal of *Leupp Chapter* property and/or equipment.
- 3. All disposal of *Leupp Chapter* property shall be reported to the *Leupp Chapter* membership via public notice or at *Leupp Chapter* meetings by the *Leupp Chapter* Manager.

### **B. Procedures:**

#### **1. Types of Disposal:**

- a. Ordinary disposal includes property disposed of through ordinary means (sales, trade-in, wear and tear, obsolete, etc).

- b. Extraordinary disposals include property that is stolen, lost, damaged or destroyed, and which require an inventory report.
2. Surplus Property:
 

Surplus property is supplies or equipment for which there is no longer a need within the *Leupp Chapter*. If the *Leupp Chapter* identifies surplus property, the *Leupp Chapter* Manager shall inform the *Leupp Chapter* membership that such property exists so that the *Leupp Chapter* membership may have first opportunity to purchase such surplus property.
3. Sale of Property:
  - a. When a sale of *Leupp Chapter* property is to be made, the *Leupp Chapter* Administration shall post a notice of sale in conspicuous places for thirty (30) days prior to said sale. Such property shall be sold at a price reflecting the property's fair-market value.
  - b. The *Leupp Chapter* Manager shall be responsible for assuring that all documents verifying the sale are provided in order that the proceeds of such a sale will be credited to Other Revenue in the fund that generated the original purchase. If information on the fund source is not available, the proceeds will be credited to Other Revenue in the General Fund. The Cash Receipt Control policy and procedures will be applied for proper reporting and recording pursuant to Section VII (A) of the *Leupp Chapter* Fiscal Policy and Procedures Manual.
  - c. The *Leupp Chapter* Manager shall remove the Capital Asset carrying value by debiting the Investment in the Capital Asset Accounts and by crediting the asset account(s) in the general and subsidiary ledgers.
  - d. The cost of retirement, as well as the proceeds received from the sale of salvage, shall be taken into account. The salvage costs will be temporarily recorded as expenditures then those are netted against the gross salvage proceeds. The net amount is then reported as Revenue - Salvage Proceeds.

Example: Asset Book Value of \$150,000; it cost \$10,000 to destroy it; the sale of salvage is \$15,000.

● <u>Capital Assets</u>		
Investment in Capital Assets	\$150,000	
Building		\$150,000
● <u>General Fund</u>		
Expenditures-others	\$ 10,000	
Cash		\$10,000
● <u>Cash</u>		
Revenue-salvage Proceeds	\$ 140,000	\$140,000



#### XIV. DEFINITIONS

The language contained in this section applies generally to this policy manual except as otherwise provided elsewhere in the *Leupp Chapter's* Five Management System.

- A. **Accountability** - involves the basic obligation of accounting for *Leupp Chapter* property, whereas responsibility for *Leupp Chapter* property arises from custody or possession of *Leupp Chapter* property and/or the obligation to supervise said property by *Leupp Chapter* staff or employees, *Leupp Chapter* officials and *Leupp Chapter* members who are in custody or possession of that property.
- B. **Acquisition Cost** - is the general accepted basis of accounting for general fixed assets used (fair-market value at the time of receipt, if asset is received by donation).
- C. ***Leupp Chapter* Manager** - is the individual responsible for administering the *Leupp Chapter* Five Management System and *Leupp Chapter* Administration.
- D. ***Leupp Chapter* Officials** - consists of the *Leupp Chapter* President, *Leupp Chapter* Vice-President, and *Leupp Chapter* Secretary/Treasurer.
- E. **Equipment in place** - is *Leupp Chapter* personal property of a movable nature which has been fixed in place or attached to a *Leupp Chapter* facility or other real property, but which may be severed or removed from the structure to which it is attached without damaging the usefulness of the structure. It does not include installed building equipment.
- F. **Expendable Property** - is *Leupp Chapter* property that is of relatively low monetary value, is consumed in the performance of a function, or is incorporated into an end product. Examples of property under this description include operating supplies, office supplies, janitorial supplies, building material, hay and feed, firewood, fencing material, small tools, and so forth.
- G. **Fair Market Value** - is the price at which a willing seller will sell and a willing buyer will buy, in an arm's length transaction, when neither is under compulsion to sell or buy and both have reasonable knowledge of relevant facts.
- H. **General Fixed Assets** - is a classification of *Leupp Chapter* property that includes land, buildings, infrastructure, improvements other than building, machinery, equipment, and construction-in-progress, meeting items 1) and 2) or 3) of the following criteria: Non-expendable.
  - 1) Value of \$500.00 or more.
  - 2) Non-expendable.
  - 3) Classified as a Sensitive Property Item by the *Leupp Chapter* Manager or elected *Leupp Chapter* officials.
- I. **General Fixed Assets Account Group** - is a self-balancing group of accounts, set up by the *Leupp Chapter* to account for the general fixed assets of the *Leupp Chapter*.

- J. **Historical Cost** - is an accounting principle requiring all financial statement items to be based on original cost. It is usually based upon the dollar amount originally exchanged in an arm's-length transaction; an amount assumed to reflect the fair market value of an item at the transaction date.
- K. **Installed building equipment** - are the items of *Leupp Chapter* equipment and furnishings, including material for installations, which are required to make a *Leupp Chapter* facility useful and are fixed as a permanent part of the structure. Examples of items included under this description are plumbing fixtures and equipment, fixed heating, cooling, ventilation, or fire protection, and counters and cabinets.
- L. **Non-expendable Property** - is an item of personal property of the *Leupp Chapter* of any dollar value that retains its identity throughout its useful life. For classification purposes, a minimum dollar value is assigned and the amount is significant enough to warrant maintaining of item accountability. The items of property under this classification, for property management and accounting purposes, will be carried on the *Leupp Chapter* property records as general fixed assets until disposed of by the *Leupp Chapter* through transfer, sale or other means.
- M. **Real Property** - is any interest in *Leupp Chapter* land, together with improvements, structures and fixtures that are located on it. The *Leupp Chapter* Planning and Zoning Council, aka: Hoyee' Bikayah Binataha, may be consulted for property land and other real property information, descriptions and classifications administered by the *Leupp Chapter*.
- N. **Responsibility** - is the obligation of a *Leupp Chapter* staff or employee, *Leupp Chapter* Officials and *Leupp Chapter* members, with respect to the proper custody, care and safekeeping of property entrusted to that individual.
- O. **Property Record** - is a basic itemized record showing the *Leupp Chapter's* property.

## XV. APPENDICES

- |    |                               |           |
|----|-------------------------------|-----------|
| A. | Property Identification Sheet | Exhibit A |
| B. | Property Assignment Form      | Exhibit B |
| C. | Insurance Premium Schedule    | Exhibit C |

<b>THE LEUPP CHAPTER</b> <b>PROPERTY IDENTIFICATION SHEET</b>	
Property No. _____ Serial No. _____ Value FY2001 \$ _____ Date of Service _____ Assigned To _____	Description _____ Classification _____ Condition _____ Useful Life _____ Last Inventory _____
<b>Acquisition Data</b>	
Date Acquired _____ Method of Acquisition _____ Acquisition Cost \$ _____ Vendor _____	Acquisition Document _____ Invoice No. _____ Fund Source _____ Account No. _____
<b>Disposition Data</b>	
Date of Disposition _____ Method of Disposition _____ Amount of Proceed \$ _____	Account Credited _____ Date Record Removed _____ Posted By _____

<b>THE LEUPP CHAPTER</b> <b>PROPERTY ASSIGNMENT FORM</b> Assignment Form	
Property No. _____ Description _____ Date of Assignment _____ Assigned To _____	Approved By _____ Date Approved _____ Responsible Assignee _____ Assignee Initial and Date _____
<b>Termination of Assignment</b>	
Date of End of Assignment _____ Returned By _____ Property Received By _____ Condition of Returned Item _____	Status of Returned Item _____ Remarks _____

**THE LEUPP CHAPTER INSURANCE  
PREMIUM SCHEDULE**

COVERAGE	DEDUCTIBLE	RATE
Contents	\$ 500.00	.250
Contractors Equipment	\$ 1000.00	.580

i. Rates are per \$100 of Value

**EXAMPLE**

(Total Contents Value divided by 100) x Rate = Premium

$$\frac{\$25,000.00}{100} = 250 \quad \times .250 = \$62.50$$

(Total Equipment Value divided by 100)                      x        RATE = PREMIUM

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**Premium for Vehicle Coverage**

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*Leupp Chapter Owned Auto*

Auto Physical Damage	\$ 275.00
Auto Liability	\$ 267.31
PL 93-638 (Leased) GSA Vehicle	\$ 275.00

**DEDUCTIBLES**

Vehicle Under One (1) Ton	\$ 500.00
Vehicle One (1) Ton and Over	\$ 1,000.00
PL-93-638 Leased GSA Vehicles	\$ 500.00

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**LEUPP CHAPTER**  
**RECORDS POLICIES**  
**AND**  
**PROCEDURES**

**LEUPP CHAPTER  
RECORDS MANAGEMENT POLICIES & PROCEDURES MANUAL  
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**LEUPP CHAPTER**  
**RECORDS MANAGEMENT POLICY AND PROCEDURES MANUAL**

**I. AUTHORIZATION**

- A. Pursuant to 26 N.N.C. § 101 (A), the *Leupp Chapter* (hereafter "*Leupp Chapter*") is required to formulate, implement and operate under a Five Management Systems to ensure accountability. Accordingly, the *Leupp Chapter* has developed policies and procedures for its Five Management System consistent with applicable Navajo Nation Law.
- B. Pursuant to *Leupp Chapter* Resolution LP08-106-2010, the Records Management Policies and Procedures Manual (hereafter "Records Manual") is hereby approved.

**II. PURPOSE AND SCOPE OF POLICY**

- A. To set forth the authority, principles and policies and procedures governing the creation, classification, maintenance, retrieval, disposal and safeguarding of the *Leupp Chapter* records and to define the *Leupp Chapter* administrative functions and *Leupp Chapter* officials' oversight functions in regard to recordkeeping.
- B. This Records Manual is applicable to all employees and members of the *Leupp Chapter*, including *Leupp Chapter* officials who will monitor the *Leupp Chapter* Administration to ensure that records are maintained and that this Records Manual is followed and enforced.
- C. These policies and procedures will provide adequate and accurate information for *Leupp Chapter* reporting activities, help justify how resources are utilized, serve as an important internal control measure, help document important decisions, and provide a history of the operation and services of the *Leupp Chapter*.
- D. These policies and procedures will ensure that all activities are supported with proper and accurate documentation, serve as an efficient and effective tool to minimize duplication of documents, provide a clear definition of records, provide adequate safeguards for the records, and maintain current and updated records.

**III. APPLICABLE LAWS:**

The *Leupp Chapter* shall comply with all applicable state, federal and Navajo Nation law, including the Navajo Nation Privacy Act, 2 N.N.C. § 81 *et seq.*

**IV. GENERAL STATEMENT OF POLICIES**

- A. The *Leupp Chapter* records are public information *except* those records that are restricted and specifically defined as "protected records" pursuant to the Navajo Nation Privacy Act, 2 N.N.C. § 81 *et seq.*; all information/records or any portions thereof

which are defined and classified as “protected records” under the Navajo Nation Privacy Act are not for public duplication or view without proper authorization.

- B. To maintain security and accountability, the control and management of all *Leupp Chapter* records shall be properly segregated so that no single employee is in a position to handle all aspects of records control.
- C. The *Leupp Chapter* records shall be complete, kept regularly filed, and kept in a locked cabinet within the *Leupp Chapter* administration office.
- D. All confidential, protected and essential records shall be properly cared for at all times and any production, copying, destruction or any other action taken with such records shall be in strict compliance with the Navajo Nation Privacy Act and other applicable law.
- E. The *Leupp Chapter* shall ensure compliance with the Navajo Nation Act and with all other applicable Navajo Nation laws.
- F. The *Leupp Chapter* officials and employees shall acknowledge by signature that all *Leupp Chapter* records will remain the property of the *Leupp Chapter*.
- G. Confidential records shall be protected by securing these records in a locked file cabinet, within the administration office.
- H. The *Leupp Chapter* shall ensure records have reached the end of their useful life and retention period schedule *before* proper authorized destruction.

## **V. GENERAL DUTIES AND RESPONSIBILITIES**

- A. The *Leupp Chapter* Administrative Assistant (or other clerical staff as delegated by the *Leupp Chapter* Administrative Assistant) shall be responsible for:
  - 1. Updating and maintaining an accurate and complete inventory of all *Leupp Chapter* records.
  - 2. Keeping all *Leupp Chapter* records complete and current at all times.
  - 3. Logging in all incoming and outgoing mail.
  - 4. Logging in all incoming and outgoing faxes.
  - 5. Maintaining and safeguarding all *Leupp Chapter* records by securing the file cabinets with a lock/key.
  - 6. Accessing and retrieving *Leupp Chapter* records by authorized request, audits, and court order or for duly authorized inspection.
  - 7. Labeling the confidential or public files (i.e. CONFIDENTIAL).



8. Obtaining approval from the *Leupp Chapter* Manager for retrieval of confidential records.
  9. Creating back up records as necessary on a bi-weekly basis.
- B. The *Leupp Chapter* Manager shall be responsible for:
1. The creation, classification, retention, protection, retrieval and disposal of all *Leupp Chapter* records.
  2. Authorizing requests for record releases and assessing any research or duplication costs for said records, upon receiving proper documentation from the requestor.
  3. Conducting an annual records inventory with the *Leupp Chapter* Administrative Assistant to ensure proper storage, disposal, transfer or filing of all records.
  4. The preparation of a retention schedule for *Leupp Chapter* records, which includes labeling the storage containers.
  5. Documenting and providing written reports to the *Leupp Chapter* officials concerning corrective actions to be taken in the event that *Leupp Chapter* records are damaged or lost.
- C. *Leupp Chapter* Officials Responsibilities:
1. The *Leupp Chapter* President shall work closely with the *Leupp Chapter* Vice President and the *Leupp Chapter* Secretary/Treasurer to ensure that the *Leupp Chapter* administration is adequately complying with the *Leupp Chapter*'s established records management policies and procedures as well as applicable Navajo Nation laws.
  2. The *Leupp Chapter* Secretary/Treasurer shall monitor the records management system on an ongoing basis to ensure compliance with the Records Manual and applicable Navajo Nation law, but in accordance with 26 N.N.C. § 1001 (E) shall not be directly involved in the management and operations of the *Leupp Chapter* administration.
  3. The *Leupp Chapter* Secretary/Treasurer shall turn over to the *Leupp Chapter* Manager, within ten (10) working days, any official actions by the *Leupp Chapter* membership, including all resolutions, minutes and other official documents, for proper record keeping and for carrying out any *Leupp Chapter* directive(s).

## VI. FILES

- A. It shall be the policy of the *Leupp Chapter* to maintain a complete and updated permanent filing system that will enable records to be easily accessed and retrieved. Refer to Section VIII of this policy manual for accessibility and retrieval process.
- B. The following types of filing methods shall be used, with a guide to identify each section for ease of accessibility: will
  - 1. Alphabetical – filed alphabetically
  - 2. Geographic – filed alphabetically according to location and/or address
  - 3. Numerical – filed by an assigned number
  - 4. Subject – filed alphabetically according to subject
  - 5. Chronological – filed by time or date

## VII. CLASSIFICATION OF RECORDS

- A. The *Leupp Chapter* shall maintain a classification of all records to ensure confidentiality of certain records and documents to be safeguarded in compliance with the Navajo Nation Privacy Act, 2 N.N.C. §§ 84 85.
- B. All inventory documentation of the *Leupp Chapter* records shall include the date of the record, and its description, location, retention period and disposal date.
- C. The *Leupp Chapter* records that are classified as “protected records” may be confidential in whole or part and may contain data on persons or entities that are private or otherwise protected pursuant to 2 N.N.C. § 85 of the Navajo Nation Privacy Act.
- D. The *Leupp Chapter* records shall be classified and labeled in accordance with their degree of importance and categorized in the *Leupp Chapter* files as follows:
  - 1. Permanent Records - These records cannot be replaced and are valuable to the *Leupp Chapter*; and should be kept on file and permanently stored. They are, but not limited to as follows:
    - a. *Leupp Chapter* Enrollment
    - b. Meeting minutes
    - c. *Leupp Chapter* Member Identification Card
    - d. Personnel
    - e. Client assistance listing and information [financial, housing, veterans, senior citizens, emergency]
    - f. *Leupp Chapter* contracts
    - g. Employee Payroll Records
    - h. Deeds and Legal Documents

- i. Real Estate Documents [Land Use Permits and Customary Grazing Land Permits issued by the Bureau of Indian Affairs; farm and grazing area maps; Grazing Permittee descendency documents; Business and Home Site Leases]
  - j. Planning and regular *Leupp Chapter* meeting agendas and minutes
  - k. Resolutions
  - l. Financial Statements
  - m. *Leupp Chapter* Ordinances
2. **Essential Records** – Records that characterize and identify the *Leupp Chapter*, that are essential for full operation of the *Leupp Chapter* government, and that shall be kept on file for 5 years. They include but are not limited to the following:
- a. *Leupp Chapter* Ordinances
  - b. *Leupp Chapter* Plan of Operation
  - c. *Leupp Chapter* Master Land Use Plan
  - d. *Leupp Chapter* Profile
  - e. Resolutions
  - f. Property Inventory Records (buildings, equipment, etc.)
  - g. Five Management Systems Policies and Procedures Manual
  - h. Client assistance listing and information (financial, housing, veterans, senior citizens, emergency, etc.)
  - i. *Leupp Chapter* contracts
  - j. Travel Authorizations
3. **Important Records** – Records that are of great value and importance to the *Leupp Chapter* government. These records shall be kept on file and stored for a minimum period of five (5) years. They are, but not limited to as follows:
- a. Financial records (bank statements, ledgers, reports, requisitions, etc.)
  - b. Personnel records
  - c. Audit reports
4. **Useful Records** – Records used and stored by the *Leupp Chapter* for information of previous activities and projects. These records have some significant value but may cost considerably to replace if lost or misplaced. These records shall be filed and kept for a minimum period of two (2) years. They include, but are not limited to the following:
- a. Correspondence
  - b. Forms
  - c. Logs (phone, mail, activities, etc.)
  - d. Resale Inventory Records

5. **Non-Essential Records** – Records for no value to the *Leupp Chapter* operation. Once their useful purpose has been fulfilled they can be destroyed. They include, but are not limited to the following:
  - a. Publications
  - b. Flyers, bulletins
  - c. Junk mail

## VIII. ACCESSIBILITY AND RETRIEVAL

- A. It shall be the policy of the *Leupp Chapter* that all *Leupp Chapter* records are public information for public access upon request, except those records that are specifically defined and treated as protected pursuant to 2 N.N.C. § 85 of the Navajo Nation Privacy Act.
- B. No Personnel Record or other confidential documents shall be duplicated without written permission from the individual whose record(s) is to be duplicated. However, the personnel records or any information therein may be disclosed in compliance with a lawful investigation or subpoena, or as otherwise in accordance with the Navajo Nation Privacy Act and other applicable law.
- C. A daily access log shall be utilized and maintained whenever any protected, important and essential records are accessed.

- D. Procedures for accessing public records:

Upon request, the *Leupp Chapter* Manager will make appropriate public records accessible using the following procedures:

1. The requesting party shall complete a Request for *Leupp Chapter* Records Form with the *Leupp Chapter* Administrative Assistant.
2. Any person making the request for a record shall complete a Request for *Leupp Chapter* Records or Documents Form containing the title of the record(s) or document(s), purpose, requested by, date, mailing address and telephone number.
3. The requesting party shall be responsible for any research or reproduction costs, and may examine the records at the *Leupp Chapter* administration under the supervision of a staff member.

- E. Procedures for accessing Protected Records:

Upon request, the *Leupp Chapter* administration shall make protected records accessible in accordance with applicable law, by using the following procedures:

1. All requests for *Leupp Chapter* documents shall be made to the *Leupp Chapter* Administrative Assistant.



2. Any person making the request for a record shall complete a Request for *Leupp Chapter* Records or Documents Form containing the title of the record(s) or document(s), purpose, requested by, date, mailing address, signature, and telephone number.
3. The *Leupp Chapter* Administrative Assistant shall explain the policy regarding protected records, and submit the request to the *Leupp Chapter* Manager for approval.
4. The *Leupp Chapter* Manager shall be responsible for assuring that the provision of protected information or records complies with the following conditions:
  - a. The information shall be accessible for criminal and civil law enforcement for prosecution purposes, internal or external audit, as a result of a court order, to further an individual's medical treatment, to address public health needs, or as otherwise in accordance with applicable law.
  - b. The information relating to an individual will be available to the individual who is the subject of the record, or if a minor, will be available to the parent or guardian.
  - c. Individual records may be released to third parties with written permission, by means of a notarized release using the information release form, of the individual who is the subject of those records, or, if a minor, by release executed by his or her parent or legal guardian.
  - d. Individual records may be released for statistical and other purposes provided that any information which could be used to identify that individual is removed, withheld, or redacted.
  - e. The *Leupp Chapter* Manager/*Leupp Chapter* Administrative Assistant will verify and record evidence of the requestors' identity.
  - f. Before releasing a protected record, the *Leupp Chapter* Manager will inform the requestor that he or she is prohibited from disclosing or providing a copy(s) of the protected record(s) to any other person and shall obtain the requestor's written acknowledgement of this prohibition. Failure of the requestor to comply with any applicable prohibition, shall subject the requestor to criminal prosecution and/or other remedy under Navajo Nation law.

F. Within ninety (90) calendar days, the *Leupp Chapter* Manager will respond to the request by:

- (1). Approving the request and providing the records.
- (2). Denying the request by providing a written explanation of why the record(s) are protected from disclosure. In making such determinations, the *Leupp Chapter* Manager shall consult with the

*Leupp Chapter* Officials and the Navajo Nation Department of Justice for advice and assistance.

- (3). Notifying the requestor that the *Leupp Chapter* does not maintain the requested record(s) and providing, if known, the name and address of the governmental entity that does maintain the record.
- (4). Upon approval of the request, the requesting party may receive copies of records (any applicable fees shall be paid to the *Leupp Chapter* Administrative Assistant) or may examine the records at the *Leupp Chapter* administration under the supervision of *Leupp Chapter* administration staff members. Any research and reproduction costs shall be the responsibility of the requesting party.

## **IX. DENIAL AND APPEAL**

- A. The *Leupp Chapter* recognizes that the general public should be provided a means to access records and information relating to the operation of its government while preserving the privacy interests of individuals and entities. Therefore, the *Leupp Chapter* will deny access to information in the record if the information is exempt from disclosure to the requestor, issuing a notice of denial as provided in 2 N.N.C. § 89 of the Navajo Nation Privacy Act.
- B. If the request for protected records is denied, in whole or in part, the *Leupp Chapter* Manager shall provide a notice of denial to the requestor either in person or by sending the written notice to the requester's address.
- C. The notice of denial shall contain the following information:
  1. A description of the record or portions of the record to which access was denied, provided that the description does not disclose the contents of the protected record(s) or information.
  2. Any court rule or order, state or federal statute or regulation that exempts the record or portions of the record from disclosure, provided that the citation does not disclose protected information.
  3. A statement that the requester has the right to make application to the Navajo Nation District Court for an order releasing the record and the time limits for filing the application.
  4. Unless otherwise required by a court of competent jurisdiction, the *Leupp Chapter* may not destroy or give up custody of any records to which access was denied until the period for a court appeal has expired, or the end of the appeal process.
- D. In the event the *Leupp Chapter* determines that the requested record is protected from disclosure, or fails to respond to the request within ninety (90) days period,

the requesting individual may submit application to the Navajo Nation District Court, as defined in 7 N.N.C. § 253, in accordance with the proper processes of the Court for an order compelling the release of the record.

1. This application must meet the notice and filing requirements of the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551 *et. seq.*
2. Any person who may have an interest in maintaining the confidentiality of the record may appear and demonstrate the need for maintaining the confidentiality of such records.
3. *Leupp Chapter* shall provide reasons for the denial.

#### **X. PROTECTION AND BACKUP OF PUBLIC AND PROTECTED RECORDS**

- A. All essential, useful, important records shall be preserved by a backup document or on an electronic memory storage device in case of damage or accidental loss. It shall be the responsibility of the *Leupp Chapter* Administrative Assistant to perform backup procedures on a bi-weekly basis, and the *Leupp Chapter* Manager will authorize access to the backup system if needed.
- B. The backup schedule shall be documented on the backup log and updated upon any backups. The following records require back-ups: financial statements, resolutions, meeting minutes, payroll, property inventories, and any other essential records.
- C. All *Leupp Chapter* records (except backups stored on an electronic storage memory device) should be stored, maintained and safeguarded on the *Leupp Chapter's* premise. There should be adequate storage protection of all *Leupp Chapter* records.
- D. The following methods shall be used for backup and protection:
  1. A separate and secure location shall be used for records stored on flash disks.
  2. Future records shall be photocopied and stored at a separate, secured location.
  3. Records stored on an electronic storage memory device shall be kept at a separate and secured location such as a Safety Deposit Box at the *Leupp Chapter's* banking institution.
- E. When necessary, the recovery of lost or damaged records shall be performed in consultation with authorized individuals.
- F. Damaged or Accidental Loss of Records:

1. The *Leupp Chapter* Manager shall document by written report to the *Leupp Chapter* officials any damage or accidental loss of essential records. Proper authorities shall be notified immediately.
2. Every effort shall be made to replace the lost or damaged records from the backup source as soon as possible.
3. *Leupp Chapter* funds shall not be used to cover the cost of replacing lost or damaged records due to individual negligence which shall be the obligation of the responsible individual.

## **XI. TRANSFER OF INACTIVE RECORDS AND DISPOSAL**

- A. The *Leupp Chapter* shall classify inactive and historical files or records according to their degree of importance, establish their retention period, and dispose of or transfer said records to an adequately secured storage area according to the procedures under this Section.

1. Procedures To Transfer Inactive Records:

- a. The *Leupp Chapter* Administrative Assistant shall be responsible for keeping all records complete and current at all times, by reviewing the records inventory list to assure those records that have reached their retention period are brought to the *Leupp Chapter* Manager's attention through a request for transfer.
- b. The *Leupp Chapter* Manager may authorize the *Leupp Chapter* Administrative Assistant to transfer those records, and, if so, shall notify *Leupp Chapter* Officials within thirty (30) days.
- c. The *Leupp Chapter* Administrative Assistant shall transfer all inactive records to a properly secured storage area separate from the *Leupp Chapter* house to ensure adequate safekeeping.
- d. The *Leupp Chapter* Administrative Assistant shall label all storage boxes as permanent, essential, useful, and important records for easy identification, accessibility and retrieval if necessary pursuant to Section VIII, (C).
- e. The *Leupp Chapter* Manager is authorized to have direct access to inactive files in storage.
- f. Where a time record is transferred for any purpose, a Transfer Procedure Form shall be filled out and submitted by the *Leupp Chapter* Administrative Assistant and approved by the *Leupp Chapter* Manager.

2. Procedures for Disposal of Records:

- a. The *Leupp Chapter* Administrative Assistant shall be responsible for keeping all records complete and current at all times by reviewing the records inventory list to assure those records that have reached their retention period are brought to the *Leupp Chapter* Manager's attention and by making a request for disposal utilizing the Disposal Procedure form.



- b. Prior to destroying any record, the *Leupp Chapter* Manager shall provide the *Leupp Chapter* Officials with thirty (30) days notice of the Administration's intent to destroy the identified records by burning or shredding, and to remove the records from the records inventory list.
- c. All remaining inactive records will be stored in an adequately secured storage area separate from the *Leupp Chapter* house during their retention period.
- d. The *Leupp Chapter* Manager, in consultation with the *Leupp Chapter* Officials, shall surrender all aged flags representing the United States, Federal Government, State Government, and the Navajo Nation to the Local Veterans Organization for proper disposal.
- e. The *Leupp Chapter* Manager and *Leupp Chapter* Officials shall monitor any disposal of permanent, essential, useful, and important records.
- f. When records are disposed of, the Records Inventory form shall be updated to reflect any changes or disposals.
- g. The retention period for all inactive records in storage shall be pursuant to Sections VII and XI.

## **XII. DEFINITIONS**

The language contained in this section applies generally to this policy manual except as otherwise provided elsewhere in the *Leupp Chapter's* Five Management System.

- A. Confidential or Protected Record – means any record containing data on persons or governmental entities that is private or otherwise protected as provided by 2 N.N.C. § 85 of the Navajo Nation Privacy Act.
- B. Public Record – means any record that is not private or otherwise protected and that is not exempt from disclosure as provided in 2 N.N.C. § 84 of the Navajo Nation Privacy Act.
- C. Record – means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics which are prepared, owned, received, or retained by the *Leupp Chapter* and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.
  - 1. Record does not mean:
    - a. Materials that are legally owned by an individual in his private capacity.
    - b. Materials to which access is limited by the laws of copyright or patent is owned by *Leupp Chapter*.
    - c. Books and other materials that are cataloged, indexed, or inventoried and contained in the collections of libraries open to the public.
    - d. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he/she is working.